Laws, Resolutions and Memorials

OF THE

STATE OF MONTANA

PASSED BY THE

Twenty-sixth Legislative Assembly
In Regular Session

Held at Helena, the Seat of Government of Said State,
Commencing January 2nd, 1939, and
Ending March 2nd, 1939

Including Constitutional Amendments, Initiative and Referendum
Measures Voted Upon by the People at the General
Election Held November 8th, 1938

PUBLISHED BY AUTHORITY

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CERTIFICATE OF AUTHENTICATION

State of Montana)
Department of } ss.
Secretary of State)

I, Sam W. Mitchell, secretary of state of the State of Montana, do hereby certify that the printed laws, resolutions and memorials contained herein are true and correct copies of all the enrolled laws, resolutions, memorials and appropriations that were passed at the twenty-sixth regular session of the legislative assembly of the State of Montana, commencing January 2nd, 1939, and concluding March 2nd, 1939, and, in addition, true and correct copies of constitutional amendments, initiative and referendum measures adopted by the people of Montana at the general election, held November 8th, 1938.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Montana, at Helena, the Seat of Government, this first day of May, A. D. 1939.

The Great Seal
of the State
of Montana

Sam W. Mitchell

Secretary of State.

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OFFICERS AND MEMBERS

OF THE

Twenty-sixth Legislative Assembly of the State of Montana

1939

Governor: ROY E. AYERS
Lieutenant Governor and President of the Senate: HUGH R. ADAIR
Speaker of the House: D. M. MANNING

Members of Senate

NAME	Residence	County	Politics
Alvord, A. A.	Thompson Falls	Sanders	Democrat
Angvick, Lars	Reserve	Sheridan	Republican
*Armstrong, Bert B.	Livingston	Park	Democrat
Arnold, S. C.	Broadview	Stillwater	Republican
*Baker, Arthur A.	Glendive	Dawson	Republican
Baker, F. E.	Libby	Lincoln	Democrat
Bateman, Dr. H. W.	Choteau	Teton	Republican
Burke, Tom	Billings	Yellowstone	Republican
*Calder, Thomas	Terry	Prairie	Democrat
†Campbell, F. C.	Wh. Sulphur Spgs.	Meagher	Republican
Campbell, John L.	Missoula	Missoula	Republican
Chadwick, F. A.	Alberton	Mineral	Democrat
*Chapman, D. W.	Peerless	Daniels	Democrat
Cotter, Charles P.	Townsend	Broadwater	Republican
Dahl, Reynold C.	Great Falls	Cascade	Republican
Davis, G. G.	Forsyth	Rosebud	Democrat
*Drumheller, Dan M.	Cut Bank	Glacier	Democrat
*Ecton, Zales N.	Manhattan	Gallatin	Republican
*Foor, Arlie M.	Wolf Point	Roosevelt	Republican
Haight, Herbert H.	Suffolk	Fergus	Democrat
Hammond, W. L.	Carlyle	Wibaux	Democrat
Henderson, M. R.	Hall	Granite	Republican
*Harlen, Harry C.	Chinook	Blaine	Democrat
*Kathan, A. E.	Brady	Pondera	Democrat
Kaulbach, Dr. J.	Fort Benton	Chouteau	Republican
*Keeley, William E.	Deer Lodge	Powell	Republican
*Kroman, Charles L.	Miles City	Custer	Republican
*Lamp, F. M.	Big Timber	Sweet Grass	Republican
Lott, Mortimer J.	Twin Bridges	Madison	Republican
McQuitty, E. F.	Harlowton	Wheatland	Democrat
*Mahoney, Charles H.	Jordan	Garfield	Republican
*Mann, Harry T.	Hardin	Big Horn	Democrat
Martin, Harry T.	Stevensville	Ravalli	Democrat
Martinson, Karl L.	Whitehall	Jefferson	Democrat
*Metzger, F. C.	Rothiemay	Golden Valley	Democrat
*Montgomery, George H.	Dillon	Beaverhead	Democrat
Mulholland, M. J.	Butte	Silver Bow	Democrat
*Murphy, Thomas F.	Anaconda	Deer Lodge	Democrat
Nutt, R. S.	Sidney	Richland	Republican
Pauline, Robert	Kalispell	Flathead	Republican
*Plank, Leonard	Chester	Liberty	Democrat
*Plumer, A. J.	Hysham	Treasure	Democrat
*Robinson, Fred L.	Malta	Phillips	Republican
*Robson, Dr. A. F.	McCone City	McCone	Democrat
Ruffcorn, George	Glasgow	Valley	Democrat
*Simmons, H. A.	Red Lodge	Carbon	Republican
*Smith, Paul W.	Helena	Lewis and Clark	Republican
*Starks, Hayes	Joplin	Hill	Democrat
*Swertelle, George A.	Roundup	Musselshell	Democrat
*Tierney, W. P.	Ronan	Lake	Democrat
*Waite, W. T. (Bill)	Broadus	Powder River	Republican
Waldrop, George R.	Winnett	Petroleum	Democrat
Weinschrott, John	Plevna	Fallon	Republican
Wilson, Geo. W.	Shelby	Toole	Democrat
Wood, C. L.	Alzada	Carter	Democrat
Woods, R. Dale	Hobson	Judith Basin	Democrat

*Holdover. Elected 1936.
†To fill unexpired term of Orville Harris, deceased.
Secretary of the Senate: GEO. A. BURR.
President Pro-tem of the Senate: BERT B. ARMSTRONG.

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House of Representatives

NAME	Residence	County	Politics
Acher, John W.	Zurich	Blaine	Democrat
Acton, W. S.	Lewistown	Fergus	Republican
Anderson, Erick	Regina	Phillips	Republican
Anderson, W. M.	Sand Coulee	Cascade	Democrat
Antrim, Stanley	Stevensville	Ravalli	Democrat
Armstrong, Ory J.	Kalispell	Flathead	Republican
Aronson, J. Hugo	Cut Bank	Glacier	Republican
Baker, C. E.	Lewistown	Fergus	Republican
Balgord, O. P.	Lavina	Golden Valley	Republican
Beadle, Minnie (Mrs. M. Kerr)	Butte	Silver Bow	Democrat
Beck, Martin J.	Wolf Point	McCone	Democrat
Berthot, A. G.	Bozeman	Gallatin	Democrat
Bjorneby, Emil G.	Kalispell	Flathead	Democrat
Bower, Frank A.	Tarkio	Mineral	Democrat
Brower, A. J.	Polson	Lake	Republican
Brown, Robert C.	Walkerville	Silver Bow	Democrat
Byrne, E. J.	Galata	Toole	Democrat
Cannon, Paul	Butte	Silver Bow	Democrat
Clark, L. W.	Harlowton	Wheatland	Republican
Cole, Kenneth	Winnett	Petroleum	Republican
Cole, N. A.	Terry	Prairie	Democrat
Collins, Roy D.	Fairview	Richland	Republican
Daniel, J. W.	Worland	Lincoln	Democrat
DeDobbeleer, Jasper	Glasgow	Valley	Democrat
D'Ewart, Wesley A.	Wilsall	Park	Republican
Dougherty, James N.	Elliston	Powell	Democrat
Duncan, Thomas W.	Missoula	Missoula	Democrat
Dunn, Robert J.	Bozeman	Gallatin	Republican
Ekern, H. O.	Thompson Falls	Sanders	Democrat
Emswiler, S. J.	Ekalaka	Carter	Republican
Findlater, R. P. (Bob)	Miles City	Custer	Republican
Flynn, John J.	Missoula	Missoula	Democrat
Freshman, Walter	Butte	Silver Bow	Democrat
Friedl, Paul	Glasgow	Valley	Democrat
Gebhardt, R. H.	Billings	Yellowstone	Republican
Goodwin, Phil C.	Butte	Silver Bow	Democrat
Green, Henry R.	Lindsay	Dawson	Republican
Hageman, Arthur	Jordan	Garfield	Republican
Hammond, Grant	Billings	Yellowstone	Republican
Hess, H. H.	Havre	Hill	Democrat
Holness, Melvin	Billings	Yellowstone	Republican
Horrigan, Frank W.	Philipsburg	Granite	Republican
James, David F.	Joplin	Liberty	Democrat
Kellogg, G. C.	Conrad	Pondera	Republican
Kirscher, W. G.	Townsend	Broadwater	Democrat
Lambert, H. A.	Havre	Hill	Democrat
Laubach, Harry	Dutton	Teton	Republican
Lehrkind, Carl, Jr.	Bozeman	Gallatin	Democrat
Leuthold, J. H.	Molt	Stillwater	Republican
Liggett, J. A.	Roundup	Musselshell	Republican
Lippard, Gordon J.	Virgelle	Chouteau	Democrat
Listug, A. T.	Wolf Point	Roosevelt	Republican
Long, J. J.	Baker	Fallon	Democrat
Longenecker, H. H.	Hamilton	Ravalli	Republican
Loughran, Mike	Butte	Silver Bow	Democrat
Lowe, Ray G.	Glendive	Dawson	Republican
Lynch, Austin E.	Highwood	Chouteau	Democrat
Manning, D. M.	Hysham	Treasure	Democrat
Malee, Thomas C.	Anaconda	Deer Lodge	Democrat
Martin, Mrs. R. T.	Lewistown	Fergus	Democrat
McCarthy, Denis	Butte	Silver Bow	Democrat
McClain, M. A.	Missoula	Missoula	Democrat
McFatridge, Arthur E.	Billings	Yellowstone	Republican
McGee, Albert	Basin	Jefferson	Democrat
McKenna, George S.	Geyser	Judith Basin	Democrat
McLeod, Archie D.	Great Falls	Cascade	Democrat
Melin, Marian A.	Livingston	Park	Democrat
Metlen, Joe	Armstead	Beaverhead	Democrat
Miles, Ben B.	McLeod	Sweet Grass	Republican
Morrison, R. E.	Helena	Lewis and Clark	Democrat
Moss, G. M.	Whitefish	Flathead	Republican
Moss, S. E. (Slim)	Miles City	Custer	Democrat
Murray, Thomas	Anaconda	Deer Lodge	Democrat
Newell, J. T.	Red Lodge	Carbon	Republican
O'Connor, G. W.	Fromberg	Carbon	Republican
Padbury, Fred H.	Helena	Lewis and Clark	Republican
Parker, Clem	Wibaux	Wibaux	Democrat
Parker, Neil C.	Bigfork	Flathead	Republican

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HOUSE OF REPRESENTATIVES—(Continued)

NAME	Residence	County	Politics
Petersen, P .C.	Westby	Sheridan	Democrat
Potter, John V.	Wh. Sulphur Spgs.	Meagher	Republican
Reed, W. H.	Turner	Blaine	Republican
Rice, John E.	Lodge Grass	Big Horn	Democrat
Roehl, E. R.	Lewistown	Fergus	Republican
Ryan, Thomas	Butte	Silver Bow	Democrat
Scofield, Charles L.	Biddle	Powder River	Republican
Siegling, Robert A.	Belt	Cascade	Democrat
Smith, Sherman W.	Helena	Lewis and Clark	Republican
Sorte, Marvin J.	Scobey	Daniels	Democrat
Spiegel, Sam	Butte	Silver Bow	Democrat
Stafford, John D.	Great Falls	Cascade	Democrat
Stevens, Charles L.	Great Falls	Cascade	Democrat
Stewart, G. D.	Forsyth	Rosebud	Republican
Stromnes, E. J.	Great Falls	Cascade	Democrat
Sullivan, Frank K.	Butte	Silver Bow	Democrat
Tyler, R. G.	Homestead	Sheridan	Democrat
Vanderbeck, James H., Jr.	Virginia City	Madison	Democrat
Watson, Fred	Missoula	Missoula	Republican
Wenger, Edward	Anaconda	Deer Lodge	Democrat
Williams, C. J.	Billings	Yellowstone	Republican
Wilson, Stuart P.	Boyd	Carbon	Republican
Woods, W. E.	Saco	Phillips	Republican
Zuck, John Q.	Flaxville	Roosevelt	Democrat

Chief Clerk of the House: J. P. BRENNAN.

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206		209	An Act to Amend Section 1008, Revised Codes of Montana, 1935, as Amended by Chapter 186 of the Twenty-fifth Legislative Assembly, 1937, Relating to the Power of School Trustees over Property and Providing the Manner in Which Conveyances by Deed May Be Made by or to School Districts and the Right of the Board of Trustees to Remove Buildings and Improvements from Land When the Land Is No Longer Being Used for School Purposes.	531
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208		Sub. 217	An Act for the Purpose of Providing for the Conservation, Protection, Restoration, and Proper Utilization of Grass and Forage Resources of the State of Montana as a Means of Restoration and Maintenance of the Prosperity and General Welfare of the State; Defining Terms, Words and Phrases; Creating the Montana Grass Conservation Commission; Defining Its Purpose; Providing for the Membership, the Appointment and Expenses Thereof; Defining the Powers and Prescribing the Duties of Said Commission; Granting Certain Authority over State Grazing Districts and the Power to Hear and Determine Controversies Between Grazing Districts or Grazing Districts and Members or Non-members Thereof; Providing for the Appointment of a Secretary to the Grass Conservation Commission, His Compensation and Defining His Powers and Duties; Providing for Hearings by the Secretary or Any Member of the Commission Delegated to Hold the Same and for Appeal to the Montana Commission from the Decision and Orders Thereon; Providing for an Appeal to the District Court from a Decision of the Commission; Creating a Fund to Be Known as the State Grass Conservation Fund and Providing for the Assessment and Collection of Fees to Defray the Expenses of Said Commission; Providing for the Creation and Incorporation of Cooperative Grazing Districts and Defining Their Powers and Duties; and Defining Who May Become Members Thereof; and the Rights and Privileges of Members; to Authorize Such Districts to Purchase Grass Seed, Livestock, Supplies, to Lease State Lands and Other Lands, and to Undertake Reseeding of Depleted Range Areas or Abandoned Farm Lands, Purchase or Otherwise Acquire the Possession of Land for Grazing Purposes, Conservation, Restoration and Improvement of Forage Resources; Granting to the Montana Grass Conservation Commission Supervisory Authority over Grazing Districts; Providing for Cooperation of and with Governmental and State Departments or Agencies; Defining the Manner	

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210		231	An Act to Provide for the Reporting of Accidents upon the Public Highways; to Provide for the Duties of Persons Involved in Such Accidents; to Require Persons Involved in Such Accidents to Furnish Certain Information and to Make Reports Thereof; Authorizing Incorporated Cities to Require the Filing of Reports of Accidents; Providing Other Regulations Relating to the Public Highways and Providing Penalties for the Violation of the Provisions Thereof.	558
211		238	An Act to Amend Section 1741.9 of the Revised Codes of the State of Montana of 1935, as Amended by Chapter 62 of the Laws of Montana, Twenty-fifth Session, 1937, Relating to Arrest by Highway Patrolmen and Empowering Therein Patrolmen to Stop Motor Vehicles Transporting Livestock or Livestock Products and Take Possession of the Same Whenever They Have Good Reason to Believe Such Are Stolen.	563
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182	An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, as Designated Herein, for Certain of the State's Institutions, for the Period Beginning July 1, 1939, and Ending June 30, 1941.	619
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SESSION LAWS

CHAPTER 1

An Act Providing for the Release, Relinquishment and Conveyance to the United States of America of All the Right, Title and Interest of the State of Montana in and to the Minerals Now Known or Hereafter Found to Exist in the Northeast Quarter (NE¼) of Section Thirty-six (36), Township Thirty-four (34) North, Range Twenty (20) West, Montana Principal Meridian.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of cooperating with the United States of America in Glacier National Park in the State of Montana, the Governor, Secretary of State and Commissioner of State Lands and Investments are hereby authorized and directed, under the formalities specified in Section 1805.96 of the Revised Codes of Montana, 1935, relating to execution of patents to State lands, to release, relinquish and convey to the United States of America, without cost, all of the right, title and interest of the State of Montana in and to the minerals now known or hereafter found to exist in the following described property lying within the exterior boundaries of Glacier National Park, State of Montana, to-wit: the Northeast Quarter (NE¼) of Section Thirty-six (36), Township Thirty-four (34) North, Range Twenty (20) West, Montana Principal Meridian.

Authorizing conveyance to United States of minerals in a certain quarter section in Glacier National Park.

Section 2. This act shall be in full force and effect from and after the date of its passage and approval.

Effective date.

Approved January 30, 1939.

CHAPTER 2

An Act to Transfer Certain Unappropriated Funds to the General Fund of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. THAT WHEREAS, the Twenty-fifth Legislative Assembly provided that a certain portion of the

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revenues from the liquor licenses and hydro-electric tax be allocated to the public welfare fund and the social security fund, and thereafter inadvertently appropriated the full amount of the appropriations for the state department of public welfare for the present biennium from the general fund of the State of Montana, thereby depleting the same, and

Previous inadvertent appropriation for State Department of Public Welfare.

WHEREAS, such inadvertent action has resulted in the accumulation of an unappropriated and unused residue in the above funds;

NOW THEREFORE, in order to correct the error made, the state treasurer and state auditor are hereby directed to transfer all such funds now in the public welfare fund and the social security fund to the general fund of the State, and that all future collections to these two funds, as set forth in Section 2343.3, Revised Codes of Montana, 1935, as amended by Chapter 83 of the Laws of 1937, and Section 29 of Chapter 84 of the Laws of 1937, be deposited in the general fund of the State of Montana.

Certain funds transferred to the general fund of the state.

Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved January 30, 1939.

CHAPTER 3

An Act to Amend Sections 8903, 8904, 9334, 9335 and 9341 of the Revised Codes of Montana, 1935, as Amended by Chapter 151, Laws of the Twenty-fifth Legislative Assembly, Relating to the Drawing Capsules From the Trial Juror Boxes and Providing That the District Judge Shall Draw Such Capsules.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 8903 R. C. 1935 amended.

Section 1. That Section 8903 of the Revised Codes of Montana, 1935, as amended by Chapter 151, Laws of the Twenty-fifth Legislative Assembly, be and the same is hereby amended to read as follows:

District judge to draw jurors.

"Section 8903. **District Judge to Draw Jury.** Immediately upon the order mentioned in the preceding

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Section *having been* made the district judge shall in the presence of the clerk of the court proceed to draw the jurors from jury box No. 1."

Section 8904 R. C. 1935 amended.

Section 2. That Section 8904 of the Revised Codes of Montana, 1935, as amended by Chapter 151, Laws of the Twenty-fifth Legislative Assembly, be and the same is hereby amended to read as follows:

"Section 8904. **Drawing—How Conducted.**

Drawing—how conducted.

"1. The clerk must place said box on a rod so that the same may readily revolve and said box must be revolved a sufficient number of times so as to insure that the capsules in said box *shall* become thoroughly mixed, and thereafter the judge must draw from said box one at a time, as many of said capsules containing the names of jurors as are ordered by the court.

Minute entry of drawing.

"2. A minute of the drawing shall be entered in the minutes of the court, which must show the name on each slip of paper so drawn from said jury box.

Names of persons deceased, insane, exempt or permanently removed from county shall be omitted.

"3. If the name of any person is drawn from said box who is deceased or insane, or who may have permanently removed from the county, or who is exempt from jury service, and the fact shall be made to appear to the satisfaction of the court, the name of such person shall be omitted from the list, and the slip of paper having such name on it shall be destroyed and another juror drawn in his place, and the fact shall be entered upon the minutes of the court. The same proceeding shall be had as often as may be necessary, until the number of jurors required shall *have been* drawn. After the drawing shall *have been* completed, the clerk shall make a copy of the list of names of the persons so drawn, and certify the same. In his certificate he shall state the date of the order and of the drawing, and the number of the jurors drawn, and the time when and the place where such jurors *shall be* required to appear. Such certificate and list shall be delivered to the sheriff for service."

Certificate by clerk.

Section 9334, R. C. 1935 amended.

Section 3. That Section 9334 of the Revised Codes of Montana, 1935, as amended by Chapter 151, Laws of the Twenty-fifth Legislative Assembly, be and the same is hereby amended to read as follows:

Judge to draw capsule containing ballot.

"Section 9334. **Judge to Draw Capsules Containing Ballot.** When an issue of fact to be tried by a jury is

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brought to trial, the district judge in the presence of the clerk of the court must openly draw out of the trial juror box as many of the capsules containing ballots, with the names of jurors thereon, one after another, as are sufficient to form a jury."

Section 9335, R. C. 1935, amended.

Section 4. That Section 9335 of the Revised Codes of Montana, 1935, as amended by Chapter 151, Laws of the Twenty-fifth Legislative Assembly, be and the same is hereby amended to read as follows:

Mode of drawing capsules containing ballot.

"Section 9335. **Mode of Drawing Capsules Containing Ballot.** Before the first capsule containing a ballot *shall have been* drawn, the box must be closed and well shaken, so as to thoroughly mix the capsules therein; and the district judge must draw a capsule containing a ballot with the juror's name thereon, through an aperture made in the lid large enough only to admit his hand conveniently, and without said judge gazing into said box before or while drawing said capsule."

Section 9341, R. C. 1935, amended.

Section 5. That Section 9341 of the Revised Codes of Montana, 1935, as amended by Chapter 151, Laws of the Twenty-fifth Legislative Assembly, be and the same is hereby amended to read as follows:

Ballots—when drawn from box No. 3.

"Section 9341. **Ballots—When Drawn from Box No. 3.** If a sufficient number of jurors duly drawn and notified do not attend to form a jury, or a jury is impaneled to another cause and not discharged, the district judge shall pursuant to an order to be entered in the minutes, in the presence of the clerk of the court draw a sufficient number of ballots from box No. 3, specified in Section 8907 of this Code, to complete the jury. The sheriff must notify the persons thus drawn to attend forthwith, or at a time fixed by court. If for any reason a sufficient number of jurors to try the issue is not obtained from the persons notified, under an order made as prescribed in this Section, the court may make another order, or successive orders, until a sufficient number is obtained. Each person so notified must attend at a time required by the notice, and unless excused by the court or set aside, must serve as a juror upon the trial. For a neglect or refusal so to do, he may be fined in the same manner as a trial juror regularly drawn and notified, as prescribed in this Code; and he is subject to the same exceptions and challenges as any other trial juror."

Sheriff to notify persons drawn.

Person notified must attend.

Penalty.

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Section 6. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 7. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 7, 1939.

CHAPTER 4

An Act to Repeal Sections 2435.1, 2435.2, 2435.3 and 2435.4 of the Revised Codes of Montana of 1935, Relating to the Imposition of a License Tax Upon Dealers in Cigarettes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Sections 2435.1, 2435.2, 2435.3 and 2435.4 of the Revised Codes of Montana of 1935, be, and the same are hereby repealed. Sections 2435.1-2435.4, R. C. 1935, repealed.

Section 2. That this act shall be in full force and effect from and after December 31st, 1939. Effective date.

Approved February 7, 1939.

CHAPTER 5

An Act to Amend Section 4993 of the Revised Codes of Montana, 1935, Relating to the Platting, Surveying and Certifying Before Sale of Small Tracts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4993 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Section 4993, R. C. 1935, amended.

"Any person who desires to subdivide and sell or transfer any tract of land in small tracts, *such as orchard tracts,* vineyard tracts, acreage tracts, suburban tracts, or community tracts, or small areas less than the United States legal subdivision of ten acres, must cause the same to be surveyed, platted, certified, and recorded according Small tracts must be surveyed and platted before sale.

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to the provisions of this chapter before any part or portion of the same is sold or transferred; *except that it will not be necessary to comply with the provisions of this Chapter relating to parks and playgrounds,* and such sales or transfers must be made by reference to the plat on file and the numbers of the lots and blocks. It is unlawful for any further sales to be made without a full compliance with the provisions of this Chapter, and the surveying and platting of the whole tract, showing the lots sold before the filing of the plat."

Parks and playgrounds excepted.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 7, 1939.

CHAPTER 6

An Act to Amend Section 2238, Revised Codes of Montana of 1935, Relating to the Duty of the Assessor to Report Certain Personal Property Tax Assessments.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 2238, R. C. 1935, amended.

Section 1. That Section 2238 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Duty of assessor to report certain personal property tax assessments.

Section 2238. **Duty of Assessor.** It shall be the duty of the assessor, upon discovery of any personal property in the county, the taxes upon which are not in his opinion a lien upon real property sufficient to secure the payment of such taxes, to immediately, and in any event not more than ten days thereafter, make a report to the treasurer, setting forth the nature, amount and assessed valuation of such property, where the same is located, and the name and address of the owner, claimant, or other person in possession of the same, and where such personal property is located in any city or town, which shall have provided by ordinance for the collection of its taxes for general, municipal and administrative purposes by its city or town treasurer, also and at the same time furnish

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to said city or town treasurer at the same time a duplicate of such notice to the county treasurer.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 7, 1939.

CHAPTER 7

An Act to Amend Section 2295.7 of the Revised Codes of Montana, 1935, as Amended by Chapter 28 of the Laws of the Twenty-fifth Session of 1937, Relating to Income Tax and Defining Gross Income and What Is Included Therein.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2295.7 of the Revised Codes of Montana, 1935, as amended by Chapter 28 of the Session Laws of the Twenty-fifth Session of 1937, be and the same is hereby amended to read as follows: Section 2295.7, R. C. 1935, amended.

"Section 2295.7. **Gross Income, What Included in.** The term "gross income";

(1) Includes gains, profits and income derived from salaries, wages or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, business, commerce, *sales or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property;* also from interest, rent, dividends, *royalties,* securities, or the transaction of any business carried on for gain or profit, *and income derived from any source whatever.* The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer; unless, under the methods of accounting permitted in this act, any such amounts are to be properly accounted for as of a different period; Gross income, what included.

(2) But does not include the following items which are exempt from taxation under this act: What not included.

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Proceeds of life insurance policies.

(a) The proceeds of life insurance policies and contracts paid upon the death of the insured to individual beneficiaries or to the estate of the insured.

Returned premium.

(b) The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract.

Value of property acquired by gift.

(c) The value of property acquired by gift, bequest, devise or descent (but the income from such property shall be included in gross income).

Compensation for personal injuries or sickness.

(d) Any amount received through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness, or through the war risk insurance act or any law for the benefit or relief of injured or disabled members of the military or naval forces of the United States, and their dependents.

Corporation stock dividends.

(e) Stock dividends when received by a shareholder shall not be subject to tax, but if before or after the distribution of any such dividend, the corporation proceeds to cancel or redeem its stock at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock shall be treated as a taxable dividend and included in gross income; provided, however, that any stock dividend shall be considered in computing gain, profit or income upon the sale, exchange or other disposition of the stock upon which a stock dividend has been declared or of the stock included in such stock dividend.

Proviso.

As to non-resident taxpayers.

(3) In the case of taxpayers other than residents, gross income includes only the gross income from sources within this state, but shall not include annuities, interest on bank deposits, interest on bonds, notes or other interest-bearing obligations, or dividends on stock of corporations; except to the extent that such annuities, bank deposits, bonds, notes or other obligations or stocks shall be a part of income from any business, trade, profession or occupation carried on in this state."

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 7, 1939.

CHAPTER 8

An Act Accepting the Amendment Enacted by Congress to Section Eleven of the Act Approved February 22, 1889, (25 Stat. 676), Relating to the Admission Into the Union of the States of North Dakota, South Dakota, Montana, and Washington, Approved by the President of the United States, June 25, 1938.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The State of Montana hereby accepts the amendment to Section Eleven of the Act approved February 22, 1889, (25 Stat. 676), relating to the admission into the union of the States of North Dakota, South Dakota, Montana and Washington, approved by the President of the United States June 25, 1938, which amendment reads as follows: State accepts amendment to act of congress.

"BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That so much of the second paragraph of Section 11 of the act relating to the admission into the Union of the States of North Dakota, South Dakota, Montana, and Washington, approved February 22, 1889, as amended, as reads 'but leases for grazing and agricultural purposes shall not be for a term longer than five years', is amended to read as follows; 'but leases for grazing and agricultural purposes shall not be for a term longer than ten years'." Approved June 25, 1938. The accepted amendment.

Section 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed. Repealing clause.

Section 3. This act shall take effect and be in full force and effect from and after its passage and approval. Effective date.

Approved February 7, 1939.

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CHAPTER 9

An Act to Authorize the Advancement of Money on Account of Salary to Officers Whose Salary Is Paid Quarterly Under the Constitution of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Advancement of money on salary account to officers whose salary is payable quarterly.

Section 1. In any case where a public officer of this State is paid his salary quarterly under and by virtue of a provision of the Constitution of the State of Montana, upon demand of any such officer, the state auditor of the State of Montana, or other disbursing officer, is authorized and directed to advance out of salary account such sum of money to such official, and to deduct same from his salary, as is equivalent to the salary that he would be entitled to receive if he were paid his salary monthly; provided that such advancement on account of salary earned shall not be made more often than once each month.

Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 7, 1939.

CHAPTER 10

An Act to Amend Section 142 of the Revised Codes of the State of Montana, 1935, Prescribing the Method of the Publication of the Laws of the Legislative Assemblies of the State of Montana:

Be it enacted by the Legislative Assembly of the State of Montana:

Section 142, R. C. 1935, amended.

Section 1. That Section 142 of the Revised Codes of the State of Montana, 1935, be amended to read as follows:

Section 142. **Publication of Laws—Index.**

Duty of secretary of state relating to the printing of laws.

The secretary of state, in pursuance of subdivision 9 of Section 134 of the Political Code, shall cause such laws as are therein specified, except resolutions, memorials, and bills appropriating money, to be printed with the heading of each law.

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CHAPTER.....

numbered from 1 upward, using Arabic numerals for such numbering, and he shall omit from the laws the statement "Senate Bill No....." and "House Bill No....." and hereafter reference to the laws of any legislative session may be made as follows: "Chapter..... (giving number) of the laws of....." (giving the year in which same was enacted). Such laws shall be published in their numerical order, from 1 upward, as same have been filed in his office, and in such manner that each section shall have a side head or marginal summary, and that the chapter number shall appear as part of each page heading; provided, that resolutions, memorials, and bills appropriating money shall be printed in the latter part of the volume containing the said laws, in the form and manner heretofore practiced in publishing such laws; *and provided further, in all enrolled bills containing amendments to existing statutes, the new parts having been designated by underlining, shall be printed in italics.* The secretary of state shall also have prepared and published with said laws, and bound in the same volume, a suitable index of the same, and an additional index showing what sections of the several codes of this State have been amended, repealed, altered, or changed by any of the laws published in that volume, which shall be known and designated as the "Code Index." Indexes.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 7, 1939.

CHAPTER 11

An Act to Permit Real Property to Be Redeemed From Tax Sale by Paying the Original Tax, Provided Such Original Taxes Be Paid on or Before February 1, 1941.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That from and after the passage and approval of this act, any person having an equitable or

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legal interest in real estate heretofore sold for taxes to any county or which has been struck off to such county when the property was offered for sale and no assignment of the certificate of such sale has been made by the county commissioners of the county making such sale, or on which taxes are delinquent for the first installment of the year 1938, shall be permitted to redeem the same by paying the original tax due thereon, and without the payment of any penalty or interest thereon. Such redemption of real estate must be made on or before the first day of February, 1941, and if such redemption is not made by the first day of February, 1941, then redemption can only be made by payment of the original tax with accrued interest, penalties and costs as now provided by law. Provided, that nothing herein contained shall be construed so as to limit, restrict or prevent boards of county commissioners from ordering that applications be made for the issuance of tax deeds, or the issuance of tax deeds to counties, or the assignment of certificates of tax sale by county or city treasurers during the period between the time this act takes effect and February first, 1941, it being intended that during such period, boards of county commissioners may order applications to be made for tax deeds and that tax deeds may be issued to counties, and that county treasurers may assign certificates of sale in the same way, in the same manner and to the same extent as though this act had not been passed. This act shall not apply to the holder of any certificate of sale other than a county.

Real property may be redeemed from tax sale by paying original tax, on or before February 1, 1941.

Provided, meanwhile county commissioners regardless of this act.

Section 2. If any section, sub-section, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislative assembly declares that it would have passed this act and each section, sub-section, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, sub-section, sentence, clause, or phrase be declared unconstitutional, the same being necessary to the welfare of the State of Montana and the political subdivisions thereof by reason of the existence of an extraordinary emergency.

Invalidity of part shall not affect remainder of act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 7, 1939.

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CHAPTER 12

An Act to Insure Safety From Death or Bodily Harm and Injury for Aeronauts and Air Passengers and to Protect the Property of Those Engaged in Aeronautics by Controlling the Building of Obstructions in Air Space in the Vicinity of Public Airports or Landing Fields Which Now May Be or Which Hereafter May Be Acquired, Owned, Operated or Maintained by the United States, State of Montana, Any County of the State or Any Municipality Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Elimination of dangerous obstructions near airports necessary for public order, health and safety.

Section 1. That for the purpose of insuring and securing safety from death or bodily harm and injury for aeronauts and passengers and to protect the property of those engaged in aeronautics and to encourage and promote air travel and transportation of mail, passengers, express and freight by air, it is deemed necessary to eliminate dangerous obstructions of air space in the vicinity of airports or landing fields which may now be or which may hereafter be acquired, owned, operated or controlled or maintained by the United States, the State of Montana, any county of the State of Montana or any municipality thereof; and to promote the public order, health and safety by providing unobstructed air space for the safe descent, landing, ascent and operation of aircraft while using or utilizing the said public airports in the State of Montana, the height of buildings and other structures in the vicinity of the airports and landing fields in the State of Montana owned, leased, operated, maintained or controlled by any of the public authorities aforesaid, regulated and restricted as hereafter set forth and provided.

Section 2. For the purposes set forth in Section 1 aforesaid and considering among other things:

(a) Requirements and facilities necessary to secure the safe descent, landing, ascent and operation of aircraft using or utilizing the public airports and landing fields aforesaid in the State of Montana;

Considerations affecting safety.

(b) Hazard from the obstruction of air space in the vicinity of such airports and landing fields;

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(c) The relation of the height of buildings and other structures in the vicinity of such airports and landing fields to such hazards;

(d) The area within which height of buildings and other structures may dangerously obstruct air space in the vicinity of public airports and landing fields;

(e) The height of buildings or other structures within such area, which is consistent with the safe use of such airports and landing fields; and

(f) The maintenance and use of obstruction markers and/or lights upon buildings and other structures within the said areas, as safety devices;

Height of structures restricted in two mile zone.

The height of buildings and/or other structures is hereby regulated and restricted within a distance of two (2) miles from any such public airport or landing field, measured at a right angle from any side or in a radial line from any corner of the established boundary line thereof, in any and all directions, as follows:

Limitations in approach zone.

(1) **Approach Zone**: The trapezoidal portion of the total two mile zone area, 500 feet in width at the boundary of the field or airport, and broadening to a width of 2500 feet two miles distant, the center line of which shall be a continuation of the center line of each runway at and upon such public airports and landing fields, known as the approach zone, shall have no building, or other structure, natural feature or object of any kind therein, the height of which is more than one-twentieth its distance from the nearest boundary of the airport or landing field.

Limitations in turning zone.

(2) **Turning Zone**: The remaining portion of the two mile zone area surrounding such public airports and landing fields aforesaid, lying between the approach zones aforesaid, and known as turning zones, shall have no building or other structure, natural feature or object of any kind therein, the height of which is more than one-seventh its distance from the nearest boundary of the airport or landing field.

Measurements to determine zone standard.

In measuring distances and heights to determine the zone standard, measurements shall be taken from the nearest side of the building or structure or other object, to the nearest side of the airport or landing field afore-

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said, and in the event of airports having boundaries not regular, the nearest established perimeter of such port and field shall be used, as distinguished from actual boundary.

Section 3. It shall be the duty and authority of every public body or governmental authority owning, operating or maintaining a public airport or landing field, to enforce the provisions of this act as pertains to areas surrounding the particular airport under the control of such body, the same to be enforced in either the court of law or of equity in the State of Montana having jurisdiction of such action, cases to be instituted in the name of the governmental body charged hereunder with the enforcement hereof, and such action may be to prevent the erection, construction or maintenance of such buildings or other structures or parts of buildings or structures, as may exceed the height limits heretofore fixed by this law, or to restrain, correct or abate any such violation, and to prevent the occupancy and use of any part of a building or structure erected in violation of this law.

Enforcement of act.

Section 4. It is hereby made the duty of every person, firm or corporation in this State, proposing to erect, establish or maintain any building or other structure, or to grow any natural object that would exceed the height limit established by law when grown, to proceed to erect, establish or maintain such structure, or plant said natural object, without first making application to the proper officer of the United States, the State of Montana, any county or any municipality (where the proposed erection or action is within two miles of a public airport or landing field as herein set forth), whichever of said bodies has control of the airport or landing field affecting the area, and obtaining from the proper authority a permit for the erection, establishment and maintenance of the structure, building or object proposed; and, no permit shall be granted unless the specifications of the building or other structure or object reveal that the total height shall not exceed the height limits fixed by law for the zone in which the same is to be established; and no permit shall be issued in violation hereof, and any erection or maintenance without a permit which is in violation hereof, shall be ineffectual in law or equity, and shall be and remain a nullity so

Application for permit to erect structures.

Restrictions as to permit.

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far as this act is concerned, and the enforcement remedies hereunder.

Existing structures.

Section 5. With respect to any building or other structure existing at the time of the passage of this act, and which does not conform to the regulations of this act in the matter of height, the governmental authority affected thereby, whether the United States, the State of Montana, the several counties, or the several municipalities, in their own right and name, to protect their own airports and landing fields, and to carry out the purposes and provisions of this act, shall have and they are hereby given the right and authority to acquire by purchase, grant, or by condemnation, such estate or interest in any such building or structure or other object, whether natural object or not, and/or in the lands upon which situated, as is necessary to vest full and absolute ownership and control in perpetuity of the space above such land to the extent necessary to correct or abate the height of any such non-conforming building or other structure or object to meet the requirements of this act as to height limitation, within the zones designated.

Definitions.

Section 6. Certain words in this act are defined for the purposes of the act as follows, unless the contrary clearly appears from the context, viz:

Airport and landing field.

(a) **Airport and Landing Field**: These terms apply to any area of land, water, or both, which is used or is made available for the landing and take-off of aircraft, owned, leased, controlled, operated or maintained by the United States, the State of Montana, any county thereof, or any municipality, or any of the authorized agencies or branches thereof, within the State of Montana.

Height of buildings and structures.

(b) **Height of Buildings and Structures**: The height of a building or structure for the purposes of this act is the vertical distance measured from the ground or surface level of the airport or landing field, on the side adjacent to the said building or structure to the level of the highest point of the building or structure.

Buildings and structures.

(c) **Buildings or Structure**: Any edifice, structure or construction of any kind, character or description, and any object of natural growth, erected, constructed, grown, located or proposed to be erected, constructed,

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grown or located within the area described in Section 2 hereof as safety zones, including any edifice, structure, or construction or object within said restricted zones, erected, constructed, placed or located on or over land and/or water.

The established perimeter of airport.

(d) The established perimeter of an airport or landing field, for the purposes of computing all distances and elevations as contemplated by this act, shall be the metes and bounds and elevations along the respective sides thereof as determined by the United States Government, the State of Montana, the several counties, the several municipalities, or other public authority owning, leasing, controlling, operating or maintaining such airport or landing field, the determination and definition to be evidenced by plat showing the metes, bounds and elevations to be filed in and among the records of said public authority for official purposes, and subject to inspection and examination at all reasonable times by any interested persons.

Emergency landing strips by authority of United States excepted.

Section 7. This act shall not apply to any landing fields or strips now established or hereafter established by the civil aeronautics authority of the United States Government, known as "Emergency Landing Strips", which do not provide at least 1800 feet of landing area in all directions and which do not provide facilities for the housing, supply and servicing of aircraft.

Restriction as to lights.

Section 8. No searchlight, beacon light, or other glaring light shall be used, maintained, or operated within said Montana airport zoning areas, so that the same shall reflect, glare, or shine upon or in the direction of the airports.

Provisions of act are severable.

Section 9. If any portion or section or clause of this act shall be declared unconstitutional or invalid, such declaration shall not invalidate the remaining portion of this act that can be applied without the aid of the invalid portions, and to that extent and end, the provisions hereof are declared to be severable.

Effective date.

Section 10. This act shall become law upon its passage by the legislature and upon the signature of the governor, or upon its becoming a law without his signature.

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Act as part of police power of state.

Section 11. This act is hereby declared to be enacted as part of the police power of the State of Montana, in the interests of public safety, and which shall be in full force and effect from and after its passage and approval.

Penalty for violations of act.

Section 12. Any person or firm or corporation violating any of the provisions of this law shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than $500.00 or by imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment. Each such person, firm or corporation shall be deemed guilty of a separate offense for every day during any portion of which any violation of this law is committed, continued or permitted by such person, firm or corporation, and shall be punishable as provided by such law.

Repealing clause.

Section 13. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 7, 1939.

CHAPTER 13

An Act to Amend Sections 2132, 2133 and 2136, and to Repeal Sections 2135 and 2137 of the Revised Codes of Montana, 1935, Relating to the Assessment of Railroads by the State Board of Equalization.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2132, R. C. 1935, amended.

Section 1. That Section 2132 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Assessment of railroads, how made.

"Section 2132. **Assessment, How Made.** The state board of equalization must assess the franchise, roadway, roadbed, rails, and rolling-stock of all railroads operated in more than one county; but franchises derived from the United States must not be assessed. All rolling-stock must be assessed in the name of the person, corporation, or association owning, leasing, or using the same. Assessment must be made to the corporation, person, or association of persons owning or leasing or using the

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same, and must be made upon the entire railroad within the State. The depots, stations, shops and buildings erected upon the space covered by the right-of-way, and all other property owned or leased by such person, corporation, or association, except as above provided, shall be assessed by the assessor of the county wherein they are situate. *After making such assessment, the board shall give at least ten (10) days written notice thereof to such owner or operator, designating therein a time and place for hearing thereon, at which time and place such owner or operator, or any taxpayer, may appear before the board in person, or otherwise, to show cause why such assessment should be either lowered or raised. On or before the second Monday in July, the board shall apportion such assessment to the counties, school districts, cities, towns, and other tax subdivision,* in which such railroad is located."

Notice and hearing.

Section 2. That Section 2133 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 2133, R. C. 1935, amended.

"Section 2133. **Duties of the State Board and County Assessors, Respecting Statement.** The state board of equalization must, within the time mentioned, in the preceding section, transmit by mail to the county assessor of each county, to which such apportionment is made, a statement *in detail sufficient for identification and location of the property, showing the assessed value per mile of the same,* as fixed by a pro rata distribution per mile of the assessed value of the whole franchise, roadway, roadbed, rails, and rolling-stock of such railroad, within the State, and the amount apportioned to the county *and to each taxing subdivision thereof.* The county assessor must enter the statement on the assessment roll of the county."

Duties of state board and county assessors, respecting statement.

Section 3. That Section 2136 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 2136, R. C. 1935, amended.

"Section 2136. **Record of Assessment and Apportionment of Railroads.** The state board of equalization must keep a record of all such assessments and apportionments."

Record of assessments and apportionment of railroads.

Section 4. That Sections 2135 and 2137 of the Revised Codes of Montana, 1935, be, and the same are hereby repealed.

Sections 2135 and 2137, R. C. 1935, repealed.

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Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 9, 1939.

CHAPTER 14

An Act Forbidding the Issuance or Award of Degrees or Literary Honors by Any Person or Institution Without First Having Secured the Approval of the State Board of Education of the Adequacy of the Course of Work or Study Offered.

Be it enacted by the Legislative Assembly of the State of Montana:

Award of degrees or similar literary honors regulated.

Section 1. No person, corporation, association or institution shall issue or award any degree or similar literary honors as are usually granted by universities or colleges, without first having secured the approval of the state board of education of the State of Montana of the adequacy of the course of work or study for which such degree or other literary honor is offered; *provided, however, that this shall not apply to any educational institution accredited by an educational accrediting association whose accrediting is found by said state board to be generally recognized by* state and other universities in the United States.

Violation, a misdemeanor.

Section 2. Any person, corporation, association or institution violating any of the provisions of this act shall be guilty of a misdemeanor.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 9, 1939.

CHAPTER 15

An Act to Amend Section 5108.5 Revised Codes of Montana, 1935, Relating to Payment of Police Reserves of the Police Officers of Any City or Town in the State

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of Montana and to Provide for Payment, From the Fund Created for the Payment of Salaries of Police Officers Upon the Reserve Lists, to Widows and Dependent Children of Police Officers of Cities and Towns, Defining Certain Terms and Repealing All Acts and Parts of Acts in Conflict With This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5108.5 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 5108.5, R. C. 1935, amended.

"5108.5. **Payment of Police Reserves.** Whenever any policeman or officer shall from age or disability become transferred from the active list of the police officers of any city or town to the reserve list of such city or town, he shall thereafter be paid in monthly payments from the funds in this act provided for, a sum equal to one-half (½) the salary he was receiving during the year prior to the time he passed to the police reserve list.

Payment of police reserves.

"Upon the death of any policeman or any officer of any city or town, his surviving dependent widow, if there be such a surviving widow, shall, as long as she remains his widow, be paid, from the police reserves fund, monthly payments in such amount as the trustees of the said fund shall deem proper, but in no event exceeding the sum of fifty dollars ($50.00) a month. No surviving widow shall be entitled to payments under the provisions of this act if she be fifteen years younger than her husband, unless she shall have been married to and living with her husband for the ten years immediately preceding his death. And if such policeman or officer shall leave a dependent minor child, or dependent minor children, then upon the death of such policeman or officer, providing he leaves no surviving widow, or upon the death or remarriage of his widow, his surviving dependent minor child, or dependent children, collectively, if there be more than one dependent minor child, shall be paid the same monthly payments as are herein provided to be paid to the surviving widow, until such minor child, or minor children, shall have attained the age of sixteen years or shall have married, provided further that the payments herein provided for to be made to the surviving widow and/or children shall not be made if such payments will require an increase in the millage

Payment to surviving dependent widow and minor children of deceased policeman.

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tax levy now provided for by Section 5108.7, Revised Codes of Montana, 1935.

Payments to guardian of such children.

"Payments as herein provided for, to be made to the minor child or children of police officers shall be paid to the duly appointed, qualified and acting guardian of such child or children, for the use of such minor, until such minor shall have reached the age of sixteen (16) years or shall have married and in case there is more than one minor child, upon each such child reaching the age of sixteen (16) years the pro rata payments to such child shall cease and shall be made to the remaining minor child or children until the youngest child shall reach the age of sixteen (16) years or shall have married.

"Policeman" and "police officer" defined.

"The term 'policeman', or 'police officer', as herein used shall include all those on the reserve list, as well as 'active police', 'police officer', and/or 'patrolman'."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 11, 1939.

CHAPTER 16

An Act to Amend Section 1186.3 of the Revised Codes of Montana, 1935, Relating to Qualifications of the School Bus Driver and Repealing That Provision of Said Section 1186.3 Requiring Bond for Such Driver.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1186.3, R. C. 1935, amended.

Section 1. That Section 1186.3 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Qualifications of school bus driver.

"1186.3. **Qualifications of School Bus Driver.** No person shall drive or operate, or be employed or permitted to drive or operate any school bus who has not received a certificate from the board of trustees of the school district in which the school bus is to be driven or operated certifying that such person is at least *twenty-one* years of

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age, is of good moral character and is qualified and competent for such position."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 11, 1939.

CHAPTER 17

An Act to Amend Sections 2138, 2139, 2141, 2142, 2143, 2144 and 2146, and to Repeal Section 2140 of the Revised Codes of Montana, 1935, Relating to Assessment of Telegraph, Telephone, and Electric Power Lines, and Other Properties Continuing Throughout More Than One County in the State of Montana, by the State Board of Equalization.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2138 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 2138, R. C. 1935, amended.

"2138. **Officers of Certain Telegraph, Telephone, Electric Power, and Other Lines to Furnish Statement to State Board of Equalization.** The president, secretary, or managing agent, or such other officer as the state board of equalization may designate, of any corporation, and each person or association of persons owning or operating a telegraph, telephone, electric power or transmission line, *natural gas pipe line, oil pipe line,* canal, ditch, flume, or other property, other than real estate not included in right of way, and which constitute a single and continuous property throughout more than one county, must, on or before the first Monday of March in each year, furnish the state board of equalization a statement, signed and sworn to by one of such officers or by the person or one of the persons forming such association, showing in detail for the year ending on the thirty-first day of December, immediately preceding, as follows: Officers of certain telegraph, telephone, electric power and other inter-county lines to furnish statement. Contents of statement.

"1. The whole number of miles of said property in the State, and where the property is partly out of the

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Number of miles owned or operated.

State, the whole number of miles without the State and the whole number of miles within the State owned or operated by such corporation, person, or association.

Value of property.

"2. The total value of the entire property and plant both within and without the State, and the total value of that portion of the same within the State.

Description of property within the state.

"3. A complete description of the property within the State, giving the points of entrance into and the points of exit from the State, and the points of entrance into and the points of exit from each county, with a statement of the total number of miles in each county in the state.

Other information.

"4. Such other information regarding such property as may be required by the state board of equalization."

Sec. 2139, R. C. 1935, amended.

Section 2. That Section 2139 of the Revised Codes of Montana, 1935, be, and the same are hereby amended to read as follows:

Statement to be transmitted to state board by county assessor.

"2139. **Statement to Be Transmitted by County Assessor to State Board.** The county assessor of every county must, on the first Monday in May of each year, transmit to the state board of equalization a statement showing:

Contents of statement.

"1. The name and address of each corporation, person and association owning or operating any telegraph, telephone, electric power or transmission line, *natural gas pipe line, oil pipe line,* canal, ditch, flume, or other similar property in more than one county of the State, whose property, or any part thereof, has been assessed by such county assessor.

Description of property.

"2. A complete description of all such property assessed to every such corporation, person, or association, together with the assessed value thereof."

Sec. 2142, R. C. 1935, amended.

Section 3. That Section 2142 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Hearing for the determination of facts pertaining to assessment.

"2142. **Hearing for the Determination of Facts Pertaining to Assessment.** If any corporation, person or association shall fail, neglect, or refuse to furnish the state board of equalization with a full, true, and correct statement as required, *and within the time,* by Section 2138 of this Code, or if the board shall have reason to

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believe that any such statement furnished the board is incorrect or erroneous in any particular, the board shall order a hearing for the purpose of ascertaining and determining such facts as will enable the board to assess the property of such corporation, person or association in accordance with the provisions of Section 2143 of this Code. At least ten days' written notice of such hearing shall be given to such corporation, person, or association, and on such hearing the board shall ascertain and determine each and all of the matters and facts which should have been stated in such statement."

Sec. 2143, R. C. 1935, amended.

Section 4. That Section 2143 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Assessment of property.

"2143. **Assessment of Property—Apportionment to Counties.** The board must assess all the properties described in Section 2138 of the Code, but franchises granted by the United States must not be assessed, *the value of such properties for assessment purposes to be determined upon such factors as the board shall deem proper.*

Apportionment of assessment to counties.

"On or before the second Monday in July, the board shall apportion such assessment to the counties in which the properties are situated."

Sec. 2141, R. C. 1935, amended.

Section 5. That Section 2141 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Notice of hearing on assessment.

"2141. **Hearing Before the Board.** *After making such assessment, the board shall give at least ten (10) days written notice thereof to the person or persons to whom the assessment is made, designating a time and place for hearing thereon, at which time and place such person or persons, or any taxpayer may appear before the board in person, or otherwise, to show cause why such assessment should be either lowered or raised."*

Sec. 2144, R. C. 1935, amended.

Section 6. That Section 2144 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Transmission of statement to counties.

"2144. **Transmission of Statement of Amount Apportioned to Counties.** The state board of equalization, must, not later than the *second* Monday of *July,* transmit or mail to the county *assessor* of each county to which such ap-

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portionment has been made, a statement showing the length of the property in such county; a description of the same sufficient for identification; the assessed value of the same as determined by *the board;* and the amount apportioned to the county. The county *assessor* must enter the statement on the assessment-roll or book of the county, and enter the amount of the assessment apportioned to the county in the column of the assessment-roll or book which shows the total value of all property for taxation in the county."

Duty of county assessor.

Sec. 2146, R. C. 1935, amended.

Section 7. That Section 2146 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Record of assessment and apportionment.

"2146. **Record of Assessment and Apportionment of Properties.** *The state board of equalization must keep a record of all such assessments and apportionments.*"

Sec. 2140, R. C. 1935, repealed.

Section 8. That Section 2140 of the Revised Codes of Montana, 1935, be, and the same is hereby repealed.

Repealing clause.

Section 9. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 10. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1939.

CHAPTER 18

An Act to Amend Section 5070 of the Revised Codes of Montana of 1935, Relating to Awarding Contracts by Cities and Towns Operating Under the Mayor-Council Plan of Municipal Government so as to Provide for Advertising for Bids for Contracts and Fixing the Period for Such Advertisement.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5070, R. C. 1935, amended.

Section 1. That Section 5070 of the Revised Codes of Montana of 1935, be, and the same is hereby amended so as to read as follows:

Contracts which must be let to lowest responsible bidder.

"Section 5070. All contracts for work, or for supplies or for material, for which must be paid a sum exceeding five hundred ($500.00) dollars, must be let to the lowest responsible bidder *after advertisement for bids; provided*

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that no contract shall be let extending over a period of three years or more without first submitting the question to a vote of the taxpaying electors of said city or town. *Such advertisement shall be made in the official newspaper of the city or town, if there be such official newspaper, and if not it shall me made in a daily newspaper of general circulation published in the city or town, if there be such, otherwise in a weekly newspaper published therein, if there be such, otherwise by posting in three (3) of the most public places in the city or town. Such advertisement if by publication in a newspaper shall be made twice, the first publication to be made not more than twenty-two (22) days nor less than fifteen (15) days before the consideration of bids and the second publication shall be made not less than five (5) days nor more than ten (10) days before the consideration of bids. If such advertisement is made by posting, fifteen (15) days must elapse, including the day of posting, between the time of the posting of such advertisement and the day set for considering bids. The council may postpone action as to any such contract until the next regular meeting after bids are received in response to such advertisement, may reject any and all bids and readvertise as herein provided. The provisions of this Section as to advertisement for bids shall not apply upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, riot or insurrection, or any other similar emergency, but in such case the council may proceed in any manner which, in the judgment of three-fourths (¾) of the members of the council present at the meeting, duly recorded in the minutes of the proceedings of the council by aye and nay vote, will best meet the emergency and serve the public interest. Such emergency shall be declared and recorded at length in the minutes of the proceedings of the council at the time the vote thereon is taken and recorded."*

Publication or posting of advertisement for bids.

In case of emergency.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 14, 1939.

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CHAPTER 19

An Act to Amend Section 5011 of the Revised Codes of Montana of 1935, Relating to the Appointment of Judges and Clerks in Municipal Elections, so as to Empower the City Council or Other Governing Body to Appoint Double Election Boards in Certain Cases.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5011, R. C. 1935, amended.

Section 1. That Section 5011 of the Revised Codes of Montana of 1935, be, and the same is hereby amended so as to read as follows:

Appointment of judges and clerks in municipal elections.

"Section 5011. The council *or other governing body* must appoint judges and clerks of election, and places of voting. Where the city or town is divided into wards there must be at least one voting place in each ward and there may be as many more as the council *or other governing body* shall fix, and the elector must vote in the ward in which he resides. *In cities and towns divided into wards* the election precincts must correspond with the wards, but a ward may be subdivided into several voting precincts, and when so divided the elector shall vote in the precinct in which he resides. *In cities and towns operating under the commission, or the commission-manager plan of municipal government, where there are no wards for election purposes and the officers of the city or town are elected at large, the election precincts shall correspond with the election precincts in such city or town as fixed by the board of county commissioners for state and county elections, but such precincts may be by the city commission divided into as many voting precincts, to facilitate the voting and counting of the vote, as the city commission shall by ordinance provide, and the elector shall vote in the voting precinct so designated, in which he resides. For all municipal elections the city council or other governing body may appoint a second or additional board of election judges for any voting precinct in which there were cast three hundred and fifty or more votes in the last general city election or in which council or other governing body believes as many as three hundred and fifty ballots will be cast in the next general city election, and such additional board of election judges shall have the same powers and duties, and under the same conditions, as the second or additional board of election judges for general elections*

Election precincts in cities and towns having commission or commission-manager plan of government.

Additional boards of election judges.

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appointed by boards of county commissioners under the provisions of Section 587 of the Revised Codes of Montana of 1935, as amended by Chapter 61 of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana. In all cities and towns where voting machines are used, the city council or other governing body must arrange the precincts so that there will be no more than six hundred votes in any voting precinct. All municipal elections must be conducted in accordance with the general laws of the State of Montana relating to such election."

Voting precincts in cities where voting machines are used.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 14, 1939.

CHAPTER 20

An Act to Amend Section 975, Revised Codes of Montana, 1935, Pertaining to Clerks and Deputies and County Superintendents of Schools and Their Salaries.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 975 of the Revised Codes of Montana of 1935, be, and the same is hereby amended so as to read as follows:

Sec. 975, R. C. 1935, amended.

"Section 975. **Clerk and Deputy.** The county superintendent of counties having fifty or more teachers in third-class districts is authorized to appoint one clerk, and the county superintendent of counties having fewer than fifty teachers in third-class district may, with the permission of the county commissioners, appoint a clerk at a salary to be fixed by the board of county commissioners.

Clerk.

"The county commissioners of counties having not fewer than seventy-five public school teachers in districts of the third-class shall appoint one deputy, other than the clerk, for every seventy-five teachers in such districts from a list furnished by the county superintendent. Such deputy shall hold a Montana certificate not less in value than a professional grade certificate, and shall be paid a salary *to be fixed by the county commissioners in an*

Deputy.

Salary.

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amount not to exceed eighty per cent (80%) of the salary of the county superintendent.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 14, 1939.

CHAPTER 21

An Act Relating to the Power of the Town or City Council to Change the Names or Numbers of Streets and Avenues.

Be it enacted by the Legislative Assembly of the State of Montana:

Town or city council may change street names or numbers.

Section 1. Any town or city council may in its judgment, when it appears to the best interest of the town or city, and the inhabitants thereof, expressed by resolution duly and regularly passed and adopted, change the name or number of any street or avenue, except that 51% of the property owners objecting to the change of name or question involved shall be supreme in this matter subject to the conditions provided for in Section 2 of this act.

Objection by property owners.

Plat showing changes and filing thereof.

Section 2. That the town or city engineer, or if there be no such officer the council may employ one for such purpose, shall prepare a plat showing such subdivisions, streets and avenues affected by such change, with the appropriate notation of change thereon, and upon approval of such plat by the council, and the filing of the same as approved with the county clerk and recorder wherein the town or city is situated, the names or numbers of said streets and avenues shall be deemed changed in accordance to the terms of said resolution as provided for in Section 1 hereof.

Repealing clause.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect upon its passage and approval.

Approved February 14, 1939.

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CHAPTER 22

An Act to Amend Section 6339 of the Revised Codes of Montana of 1935, Relating to the Payment of Death and Annuity Benefits Upon the Lives of Children; Providing for the Organization and Operation of a Branch of the Society for Children; Providing for the Amount of Benefits Payable Thereunder, and Repealing All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6339 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 6339, R. C. 1935, amended.

"Section 6339. Any fraternal benefit society authorized to do business in this State and operating on the lodge plan, may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death or annuity benefits upon the lives of children between the ages of one (1) and sixteen (16) years at next birthday, *upon the application of some adult person, as the laws of such society may provide, upon whom such child is dependent in whole or in part for support and maintenance.* Any such society may, at is option, organize and operate branches for such children and membership in local lodges and initiation therein shall not be required of such children, or shall they have any voice in the management of the society. The total benefit payable, as above provided shall in no case exceed the following amounts at ages at next birthday at time of death, respectively as follows: One (1), one hundred dollars ($100.00); two (2), two hundred dollars ($200.00); three (3), three hundred dollars ($300.00); four (4), four hundred dollars ($400.00); five (5), five hundred dollars ($500.00); six (6), six hundred dollars ($600.00); seven (7), seven hundred dollars ($700.00); eight (8), eight hundred dollars ($800.00); nine (9), nine hundred dollars ($900.00); ten (10), one thousand dollars ($1,000.00); eleven (11) to sixteen (16), two thousand five hundred dollars ($2,500.00)."

Death or annuity benefits upon the lives of children.

Maximum of benefit payable.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

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Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 15, 1939.

CHAPTER 23

An Act to Amend Section 63 of the Revised Codes of Montana as Amended by Chapter 44 of the Laws of 1937 Relating to the Number, Designation, Election and Appointment of Officers and Employees of the House of Representatives.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 63, R. C. 1935, amended.

Section 1. That Section 63 of the Revised Codes of Montana, 1935, as amended by Chapter 44 of the Laws of 1937 be and the same hereby is amended to read as follows:

Officers and employees of the house.

"Section 63. **Officers and Employees of the House.** The officers and employees of the House of Representatives shall consist of a speaker, a speaker pro tem, one chief clerk, one sergeant-at-arms, one chaplain, one first assistant to the sergeant-at-arms, one second assistant to the sergeant-at-arms, one assistant to the chief clerk, one clerk to the chief clerk, one bill clerk, one assistant bill clerk, one reading clerk, one clerk to the sergeant-at-arms, one journal clerk, one assistant journal clerk, one enrolling clerk, one assistant enrolling clerk, one engrossing clerk, one assistant engrossing clerk, one printing clerk, *one assistant printing clerk,* one secretary to speaker, one mailing and filing clerk, one secretary to the judiciary committee, one secretary to the appropriations committee, one payroll clerk, one law clerk, one assistant law clerk, one head janitor, three assistant janitors, three doorkeepers, three watchmen, five pages, two telephone operators, two elevator operators, *fifty stenographers, ten typists, twenty proof-readers, ten clerks and such other and further employees as the House of Representatives and the Senate may, by joint resolution, from time to time determine.*"

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 15, 1939.

CHAPTER 24

An Act to Amend Section 2207 of the Revised Codes of Montana, 1935, as Amended by Chapter 101, Laws of 1937, Relating to Assignments of Rights of Counties Acquired at Sales of Real Property for Delinquent Taxes, and the Form of Certificate of Assignment.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2207 of the Revised Codes of Montana, 1935, as amended by Chapter 101, Laws of 1937, be, and the same is hereby amended to read as follows: Sec. 2207, R. C. 1935, amended.

"Section 2207. **Assignment of Rights of County in Property Acquired at Sale—Form of Certificate.** At any time after any parcel of land has been bid in by the county as the purchaser thereof for taxes, as provided in Section 2191, the same not having been redeemed, the county treasurer shall assign all the right of the county therein, acquired at such sale, to any person who shall pay the amount for which the same was bid in, with interest upon the original tax at the rate of *two-thirds (2/3)* of one per cent per month, and the amount of all subsequent delinquent taxes, penalties, costs, and interest, as provided by law, upon the same from time to time when such tax became delinquent. He shall execute to such person a certificate for such parcel, which may be substantially in the following form: Assignment of rights of county in property acquired at sale.

"I, ..., the treasurer of the county of....., State of Montana, do hereby certify that at the sale of lands pursuant to the tax assessment for the year 19....., in the county of....., and which sale was held on the.....day of..... 19....., for the purpose of liquidating said assessment, the following described parcel of land, situate in said county of....., State of Montana, to-wit, (insert description) was duly offered for sale; that there Form of certificate.

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was no purchaser in good faith for the same as provided by law on the first day the property was offered for sale; and thereafter, on the.....day of....., 19....., I again offered said property for sale at the place advertised for such sale, and no person or purchaser offered to take the same and pay the taxes, cost, and charges due as aforesaid, the whole amount of the property assessed and described as above was struck off to the county of.....as purchaser thereof for the sum of....., and the same still remaining unredeemed, and on this day.....having paid into the treasury of said county the amount for which the same was bid in, together with all subsequent delinquent taxes, penalties, cost, and interest, amounting in all to .....dollars;

Form of certificate.

"Now, therefore, in consideration thereof, and pursuant to the statute in such case made and provided, I do hereby assign and set over all the right, title and interest of the county of....., State of Montana, acquired in said lands under and by virtue of said sale, to the said....., his heirs and assigns, forever, together with all the rights, powers, and privileges of the said county of.....to take steps to receive a deed thereof, or receive payment in case of a redemption, subject, however, to redemption as provided by law.

"Witness my hand and official seal of office this .....day of....., 19.....

.....

County Treasurer.

"Provided, that in case the certificate herein above described shall by accident become lost or destroyed by the assignee, then in such an event the county treasurer shall issue a duplicate certificate to the assignee after the said county treasurer is convinced that the said certificate has been lost or destroyed and after the said assignee has made an affidavit to that effect."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 15, 1939.

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CHAPTER 25

An Act Amending Section 2210 of the Revised Codes of Montana, 1935, Relating to Redemption From Tax Sales.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2210 of the Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows: Sec. 2210 R. C. 1935, amended.

"2210. **Redemption From Tax Sales.** In all cases where real estate has been sold for delinquent taxes the purchaser at such tax sale, or his assignee, may, subsequent thereto, pay the subsequent taxes assessed against said land, and upon the redemption of said land from such tax sale, the redemptioner shall, in addition to the amount for which the said land was sold, with interest thereon, pay the subsequent taxes paid by the purchaser at such tax sale, or his assignee, with interest thereon at the rate of *eight* per cent per annum from the date of the payment of such taxes, and in all notices of application for tax deed the applicant shall state, in addition to the amount paid at the tax sale, the amount of subsequent taxes paid by the applicant or his assignee upon such land, with interest thereon at the rate of *eight* per cent per annum from the date of such payment, and no redemption shall be made until the amount of such sale, with interest, and such subsequent taxes and interest shall have been paid by the person seeking to redeem such lands." Redemption from tax sales.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 15, 1939.

CHAPTER 26

An Act to Amend Section 2182 of the Revised Codes of Montana, 1935, Relating to Publication of Notice of Delinquent Tax Sales.

Be it enacted by the Legislative Assembly of the State of Montana:

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Sec. 2182, R. C. 1935, amended.

Section 1. That Section 2182 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Publication of notice of tax sales.

"2182. **Publication of Notice of Tax Sales.** On or before the last Monday of June of each year, the county treasurer must publish in the manner and for the time prescribed in Sections 2184, 2185 and 2186, a notice specifying:

Contents of notice.

1. That at a given time and place (to be designated in the notice) all property in the county, upon which delinquent taxes are a lien, will be sold at public auction, unless prior to said time, said delinquent taxes, together with all interest, penalties and costs due thereon are paid;

2. A complete delinquent list of all persons and property in the county, now owing taxes, *including all city and town property, as to which taxes, or taxes and assessments, are delinquent,* is on file in the office of the county treasurer and is subject to public inspection and examination."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 15, 1939.

CHAPTER 27

An Act to Repeal Sections 6374.1, 6374.2, 6374.3, 6374.4, 6374.5, 6374.6, and 6374.7 of the Revised Codes of Montana of 1935, Relating to the Issuance of Permanent Stock by Building and Loan Associations and Authorizing and Regulating the Issuance Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealed—certain sections of the Revised Codes of 1935, relating to issuance of permanent stock by building and loan associations.

Section 1. That Sections 6374.1, 6374.2, 6374.3, 6374.4, 6374.5, 6374.6, and 6374.7 of the Revised Codes of Montana of 1935, relating to the issuance of permanent stock by building and loan associations and authorizing and regulating the issuance thereof, be, and the same are hereby repealed.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 15, 1939.

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CHAPTER 28

An Act to Amend Section 9322 of the Revised Codes of Montana of 1935, Relating to "In What Cases Judgment by Default May Be Entered", and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 9322 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 9322, R. C. 1935, amended.

"Section 9322. **In What Cases Judgment by Default May Be Entered.** Judgment may be had, if the defendant fails to answer the complaint or to challenge the jurisdiction of the court, as follows:

In what cases judgment by default may be entered.

1. In an action arising upon contract for the recovery of money or damages only, if no answer, demurrer, motion, or special appearance, coupled with a motion, has been filed with the clerk of the court within the time specified in the summons, or such further time as may have been granted, or no motion to quash or set aside the service of summons, or to challenge the jurisdiction of the court, has been made and filed, the clerk, upon application of the plaintiff, must enter the default of the defendant, and immediately thereafter enter judgment for the amount specified in the complaint, including the costs, against the defendant, or against one or more of several defendants, in the cases provided for in Section 9121.

In actions upon contract.

2. In other actions, if no answer, demurrer, motion, or special appearance, coupled with a motion, has been filed with the clerk of the court within the time specified in the summons, or such further time as may have been granted, or within twenty days after a motion to quash or set aside the service of summons, or any motion challenging the jurisdiction of the court, has been denied, the clerk must enter the default of the defendant; and thereafter the plaintiff may apply for the relief demanded in the complaint. If the taking of an account, or the proof of any fact, is necessary to enable the court to give judgment, or to carry the judgment into effect, the court may take the account or hear the proof; or may,

In other actions.

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in its discretion, order a reference for that purpose. And where the action is for the recovery of damages, in whole or in part, the court may order the damages to be assessed by a jury; or if, to determine the amount of damages, the examination of a long account be involved, by a reference, as above provided.

In actions where the service of summons was by publication.

3. In an action where the service of summons was by publication, the plaintiff, upon the expiration of the time for answering, may, upon proof of the publication, and that no answer or motion to quash or set aside the service of summons, or motion to challenge the jurisdiction of the court, has been filed, apply for judgment; and the court must thereupon require proof to be made of the demand mentioned in the complaint; and if the defendant be not a resident of the State, must require the plaintiff, or his agent, to be examined on oath respecting any payments that may have been made to the plaintiff, or to anyone for his use, on account of such demand, and may render judgment for the amount for which he is entitled to recover.

Defendant may consent to entry of his default.

4. *At any time within twenty days after the service of summons upon a defendant in any action commenced in any district court of this State, the defendant may, in writing acknowledged before a notary public, or judge or clerk of the district court, waive his time and right to demur, answer, or otherwise plead to the complaint in the action and consent and agree that his default for failure to demur, answer or otherwise plead to the complaint be entered by the court and that judgment may be rendered and caused to be entered against him by the court in accordance with the prayer of the complaint; whereupon, proof having first been made to the court as required by law, the court shall be authorized to render and enter judgment in favor of the plaintiff and against the defendant in the action in accordance with the prayer of the complaint. Such waiver shall be filed in the action and be made a part of the judgment roll therein.''*

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 15, 1939.

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CHAPTER 29

An Act Validating, Approving and Confirming All Elections Heretofore Proposed and Held by the Initiative Pursuant to Section 1 of Article V of the Constitution of the State of Montana and the Provisions of Chapter 13 of Revised Codes of Montana, 1935, and the Election Laws of the State of Montana Authorizing the Issuance of Debentures of the State of Montana, Providing for the Sale Thereof for the Use of the State Highway Fund in Matching Federal Highway Grants, Providing for a Tax on Gasoline or Motor Fuels and Anticipated Revenue Therefrom, All as Is More Fully Described in the Initiative Measures Submitted at Such Elections, at Which Elections the Proposal to Issue Said Debentures Received a Majority of All the Votes Tendered and of All Votes Cast at Such Elections.

Be it enacted by the Legislative Assembly of the State of Montana:

Validated election by the initiative authorizing issuance and sale of state debentures for the use of the highway fund.

Section 1. Each and every election heretofore proposed and held by the initiative pursuant to Section 1 of Article V of the Constitution of the State of Montana and the provisions of Chapter 13 of the Political Code of the Revised Codes of Montana, 1935, and the election laws of the State of Montana, authorizing the issuance of debentures of the State of Montana, providing for the sale thereof for the use of the state highway fund in matching federal highway grants, providing for a tax on gasoline or motor fuels and anticipating revenues therefrom, prescribing the form and conditions of said debentures and the conditions upon which the sale of said debentures may be made and the use of the funds to be derived therefrom, and providing for the creation of a liability binding the State of Montana not to reduce the license tax on gasoline or motor fuel and subject to the further conditions and restrictions expressed therein, and at which elections the proposal to issue such debentures for highway purposes received a majority of all the votes tendered and of the votes cast at such elections upon such propositions, be and the same hereby is legalized, ratified, confirmed and declared valid to all intents and purposes and all such debentures, whether issued or hereafter to be issued, are legalized and declared to be valid and legal obligations of and against the issuing public body regardless of any error, defect, omission, irregularity or departure from

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said statutes and laws in the holding of and conducting of such elections, or in any of the steps or proceedings relating thereto.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1939.

CHAPTER 30

An Act to Amend and Re-enact Sections 2, 3, 4, 6, and 9 of Initiative Measure No. 41 Entitled: "A Bill to Enact by the Initiative a Law to Be Known as the State Highway Treasury Anticipation Debentures Act of 1938; Authorizing the Issuance of Debentures of the State of Montana in the Principal Sum of Three Million Dollars ($3,000,000) at Such Times and in Such Amounts up to the Said Principal Sum, as Shall From Time to Time Be Required for the Purpose Hereinafter Set Forth; and Providing for the Sale Thereof for the Use of the State Highway Fund in Matching Federal Highway Grants and Assuring the Ability of the State of Montana to Secure Moneys Made Available by Acts of Congress in Reference to Highways; Providing for a Tax on Gasoline or Motor Fuels and Anticipating Revenues Therefrom; Prescribing the Form and Conditions of Said Debentures and Interest Thereon at a Rate Not Exceeding Four Per Centum (4%); Providing the Date of Their Maturity and of Calling or Payment Thereof; Providing a Method by Which the State Treasurer May Purchase Such Debentures and Providing That Such Debentures May Be Accepted as Security for the Repayment of Public Moneys; Prescribing the Conditions Under Which the Sale of Such Debentures May Be Made and the Use of the Funds to Be Derived From the Sale of Such Debentures; Providing for the Repayment of Both Principal and Interest of Such Debentures and for the Pledging and Setting Aside of a Sufficient Amount of Said Excise Tax on Gasoline or Motor Fuel to Pay the Same From

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the State Highway Treasury Redemption Fund Herein Created; Providing for the Creation of a Liability Binding the State of Montana Not to Reduce the License Tax on Gasoline or Motor Fuel as the Same Now Exists, Being Now Five Cents (5c) Per Gallon of Gasoline Purchased for Use in Propelling Motor Vehicles Upon the Highways of the State of Montana, Until After the Accrual of a Sufficient Amount of Money in Such Highway Treasury Redemption Fund to Pay in Full the Principal and Interest of Such Debentures Lawfully Issued Under the Authority Hereof; and Providing That no Part of the Gasoline Excise Tax Mentioned Be Diverted to Any Other Purpose Than Use for Highway Construction, Betterment and Maintenance''; Approved at a State-wide Election Held November 8, 1938; Clarifying the Act by Making More Specific the Manner in Which the Debentures Shall Be Sold and the Place and Time of Payment Providing the Form of Debenture and Form of Interest Coupon to Be Attached to Such Debenture; Fixing Date of Issuance and Maturity of Debentures and the Order of Payment of Both Interest and Principal; the Means and Method of Call and Registration of Debentures and Providing That the Excise or License Tax of Five Cents (5c) Per Gallon on Gasoline or Motor Fuels, or Dealers, or Distributors, Shall Not Be Reduced; Providing for a State Highway Anticipation Debenture Interest and Redemption Fund Deleting From Section 4 of Said Act the Provision for Setting Aside Only Sufficient Amounts to Meet Interest Payments During the Years 1939, 1940 and 1941; Adding to Section 6 a Provision That the Proceeds Set Aside Are Appropriated for the Purpose as Set Forth in the Act; and Adding to Section 9 a Proviso to the Effect That All Covenants in the Debentures Shall Be for the Equal Protection and Benefit of Holders, and all Debentures and Coupons Shall Be of Equal Rank; Repealing All Acts or Parts of Acts Inconsistent With the Terms Hereof and Declaring an Emergency.

Be it enacted by the Legislative Assembly of the State of Montana:

Certain sections of initiative measure No. 41 amended.

Section 1. That Sections 2, 3, 4, 6 and 9 of Initiative Measure No. 41, entitled: ''State Highway Treasury Anticipation Debentures Act of 1938'', approved at a state-wide

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election held November 8, 1938, be and the same are hereby amended and re-enacted to read as follows:

State Highway Commission authorized to issue and sell debentures.

Section 2. The state highway commission of the State of Montana, acting by resolution adopted by vote of the majority of its members, is hereby authorized and directed to issue and sell state highway treasury anticipation debentures of the State of Montana, for the purpose hereinabove provided, in an amount not to exceed the aggregate principal sum of three million dollars ($3,000,000).

Terms and conditions of debentures.

Said debentures shall bear such rate or rates of interest, not to exceed, however, the rate of four per centum (4%) per annum, payable semi-annually, and shall be payable at the office of the state treasurer of the State of Montana at Helena, Montana, or at the option of the holders thereof, at the fiscal agent of the State of Montana, in the Borough of Manhattan, City and State of New York, both as to interest and principal, as such highway commission shall by its resolution direct, and shall be executed in the name of the State of Montana by the governor and state treasurer under the Great Seal of the State and shall be attested by the secretary of state.

Interest coupons.

The semi-annual installments of interest shall be evidenced by interest coupons attached to said debentures, which shall be executed by the engraved or lithographed facsimile signatures of the governor and the secretary of state.

Debentures are negotiable.

The principal of and interest upon such debentures shall be payable in lawful money of the United States of America, and all such debentures issued pursuant to the provisions of this act shall be fully negotiable within the meaning and for all the purposes of the negotiable instruments law as said law is now or may hereafter be in force in the State of Montana.

Maturity.

All of such debentures so issued shall mature at the expiration of ten (10) years from and after the date thereof and shall be callable *at par and accrued interest for redemption prior to maturity on any interest payment date on, or after the* expiration of, five (5) years from date thereof at the option of the state treasurer of the State of Montana, *as provided herein. Said debentures and coupons shall be in substantially the following form:*

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Number..... $..... Form of debenture.

UNITED STATES OF AMERICA
STATE OF MONTANA
STATE HIGHWAY TREASURY ANTICIPATION DEBENTURE
(STATE HIGHWAY FUND)

For value received the State of Montana acknowledges itself to owe and promises to pay *to bearer, or if this debenture be registered as to principal, then to the registered holder hereof, from the state highway fund of the State of Montana, the sum of.....Dollars, ($.....), on the.....day of.....19....., subject to the right of prior redemption as hereinafter set out, with interest hereon from the date hereof until paid at the rate of.....per centum (.....%), per annum, payable....., and semi-annually thereafter on the..... day of.....and of.....of each year, upon presentation and surrender of the annexed interest coupons as they severally become due. Both principal hereof and interest hereon are hereby made payable in lawful money of the United States of America, at the office of the state treasurer of the State of Montana, Helena, Montana, or at the option of the holder, at the fiscal agent of the State of Montana, in the Borough of Manhattan, City and State of New York.*

This debenture is one of a series of debentures of like date, tenor and effect aggregating the principal sum of .....Dollars ($.....).

The principal of and interest upon all debentures of this series are entitled to payment at maturity in the order of presentation of debenture and coupon at the office of the state treasurer of the State of Montana or at the fiscal agent of said State in the Borough of Manhattan, City and State of New York, but are otherwise entitled to no priority or preference the one over the other, and said debentures are issued in pursuance of and subject to the terms and provisions of the state highway treasury anticipation debentures act of 1938, and this debenture and all other debentures of this series are secured by the monies derived from the excise or license tax on gasoline or motor fuels as provided for in said act and not otherwise.

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Form of debenture.

The state treasurer of the State of Montana reserves the right to call and redeem this debenture prior to maturity at par and accrued interest, on....., or on any interest payment date thereafter, upon notice specifying the number of the debenture and date of redemption given by registered mail to the holder, if known, and as to any unknown holder such notice shall be published once each week for at least two (2) weeks, in a newspaper of general circulation printed and published in the City of New York, New York, and in the City of Helena, Montana, and shall be filed at the places of payment of principal and interest. The mailing of such notice shall be at least thirty (30) days preceding such redemption date. The first publication and the filing of such notice shall be at least thirty (30) days preceding such redemption date, and when such debentures shall have been called for redemption and payment made or provided for, interest thereon shall cease from and after the date so specified.

It is hereby certified, recited and declared that all matters, acts, conditions and things required by law to make this debenture a valid, outstanding and binding obligation against the state highway fund of the State of Montana, have happened and been done and performed, and the State of Montana hereby pledges its faith and credit that the excise or license tax on gasoline or motor fuels, as provided in the act authorizing the issuance hereof, shall not be reduced so long as this debenture or any of the debentures of this series shall remain outstanding and unpaid, except as in said act provided.

This debenture is subject to registration as to principal in the name of the owner on the registry books of the state treasurer, such registration to be evidenced by a notation of said treasurer on the back hereof and on said books, and after such registration no transfer hereof except noted hereon and upon such books shall be valid unless the last registration shall have been to bearer, provided that such registration shall not restrain the negotiability of the interest coupons by delivery merely.

IN WITNESS WHEREOF and pursuant to the authority vested in them and each of them and under and by direction of the aforesaid act, the governor and the state treasurer of the State of Montana have hereunto affixed their and each of their official signatures, and the secretary

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of state of the State of Montana has attested the same by his official signature and the Great Seal of the State of Montana at Helena, the capital of said State, this.....day of....., A. D., 19.....

.....

Governor of the State of Montana.

.....

State Treasurer of the State of Montana.

Attest:

.....

Secretary of State of the State of Montana.

(Form of Coupon)

Form of coupon.

On the.....day of....., 19....., the State of Montana promises to pay to bearer, unless the debenture to which this coupon is attached shall have been called for prior payment as therein provided, and payment made or provided for, at the office of the state treasurer of the State of Montana, at Helena, Montana, or at the option of the holder, at the fiscal agent of the State of Montana, in the Borough of Manhattan, City and State of New York, the sum.....Dollars ($.....), in lawful money of the United States of America, from the state highway fund of the State of Montana, for interest then due on its state highway treasury anticipation debenture dated....., 19....., and numbered.....

.....

Governor of the State of Montana.

.....

Attest:

.....

Secretary of State of the State of Montana.

On the back of each of said debentures shall be printed the following:

This debenture registered in my office this.....day of....., A. D. 19.....

.....

State Treasurer of the State of Montana.

Name of Registered Owner	*Date of Registration*	*Signature of State Treasurer*
.....	.....	.....
.....	.....	.....
.....	.....	.....

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Date of debentures.

Section 3. All of said state highway treasury anticipation debentures shall bear date on the date they are actually issued and shall be issued and due and payable as provided in Section *2* of this act. The principal *of and* the interest *upon* said debentures shall be entitled to payment in the order of their presentation at maturity unless sooner called and paid as provided for in Section 2 of this act, otherwise without preference or priority one over the other.

Issuance and sale of debentures constitutes contract between the state and the legal owner—terms of contract on the part of the state.

Section 4. The issue and sale of said debentures shall constitute an irrevocable contract between the State of Montana and the *legal* owner of any of said debentures *or coupons attached thereto* that the excise or license tax *of five cents (5c) a gallon on gasoline or motor fuels or dealers or distributors, as provided in this act or in any of the other laws of the State of Montana thereunto enabling, shall not be reduced nor any part thereof diverted to any other purpose than as at present provided by law, so long as any of said debentures or said coupons remain outstanding and unpaid,* and that the State of Montana will cause such taxes to be promptly collected and, after the payment of drawbacks or refunds, the state treasurer shall set aside *monthly* from the proceeds of said license taxes *and pay* into a fund to be known as the state highway treasury anticipation debenture *interest and* redemption fund *of 1939, which is hereby created as a separate and distinct fund of the State of Montana, an amount of money collected therefrom equaling one-sixth (1/6) of the interest requirements upon said debentures which will fall due upon the next succeeding interest payment date and an amount sufficient to create an adequate sinking fund to pay the redemption price of all outstanding debentures optional for prior payment, provided that such monthly payments for meeting the interest and principal requirements of said debentures shall always be fully sufficient therefor so as to provide ample funds for the prompt payment of the principal amount of all such debentures at the maturity of each thereof and the interest accrued thereon. The pledge of said license or excise taxes of five cents (5c) a gallon on* gasoline or motor fuels and dealers and distributors, as therein and herein provided, shall be irrepealable until all of said debentures and the interest accrued thereon shall have been fully paid and all of said debentures and the interest thereon shall be paid *solely* from the proceeds of said excise taxes *as collected,* pro-

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vided that nothing in this act shall prevent the reduction of such excise taxes when sufficient monies to pay the principal and accrued interest on all of said debentures have been set aside in said highway *treasury anticipation* debenture *interest and* redemption fund *of 1939, and all monies in said fund shall be retained by the state treasurer as a fund separate and apart from all other state funds and shall be used exclusively for the payment of the principal of and interest upon the debentures issued pursuant to this act.*

Appropriation of proceeds of debentures.

Section 6. The proceeds *received* from the sale of said state highway treasury anticipation debentures, *except any accrued interest and premium,* shall be placed in the state treasury and credited to the state highway fund to be used for the purposes hereinbefore set out, *and such proceeds are hereby appropriated to be used for such purposes; provided that any such accrued interest or premium so received shall be deposited by the state treasurer in the said state highway treasury anticipation debenture interest and redemption fund of 1939, to be used for payment of the interest upon and maturing principal of said debentures, respectively, as hereinabove provided.*

License tax upon distributors of gasoline.

Section 9. For the purpose of providing funds for the payment of the interest and the maturing principal of the state highway treasury anticipation debentures herein provided for every distributor referred to and defined in the gasoline license tax laws of the State of Montana now in effect shall pay for the year beginning April 1, 1939, and ending March 31, 1940, and each year thereafter until the principal and interest of all debentures issued under the authority of this act shall have been paid, to the state board of equalization for deposit into the state treasury, and excise or license tax for the privilege of engaging in and carrying on such business in this State in an amount equal to five cents (5c) for each gallon of gasoline refined, manufactured, produced or impounded by such distributor and sold by him in this State, or shipped, transported or imported by such distributor into and distributed and sold by him within this State, after it has arrived in and is brought to rest within this State, whether sold in the original packages or in the broken packages during such year; provided that all gasoline delivered by any distributor to any of his service stations in this State shall be deemed to have been sold and shall be treated and

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considered in computing such license tax in the same manner as though the same had been sold to dealers or to other persons. In making the computation of license tax due and in making payment thereof, two per centum (2%) of the amount of such tax shall be deducted by the distributor as an allowance for evaporation and other loss of gasoline handled by such distributor, and every dealer referred to and defined in the gasoline license tax laws of the State of Montana now in effect, shall, for the year beginning April 1, 1939 and ending March 31, 1940, and each year thereafter until the principal and interest of all debentures issued under the authority of this act shall have been paid, while engaged in such business in this State, pay to the state board of equalization for deposit in the state treasury, a license tax for the privilege of engaging in and carrying on such business in this State, in a sum equal to five cents (5c) for each gallon of gasoline sold or distributed by such dealer in the State during such year; provided, however, that no gasoline sold by such dealer, which was purchased by him from a producer or distributor, who has paid the tax thereon, shall be included or considered in determining the amount of such license tax to be paid by such dealer, but only such gasoline as was shipped, transported or imported into this State and purchased by such dealer before it had arrived in and was brought to rest within this State and then re-sold by such dealer, whether in the original packages or in broken packages, shall be included or considered for the purpose of computing such license tax due, provided that no gasoline exported out of the State of Montana shall be included in the computation of any dealer's license tax herein provided for. Two per centum (2%) of the amount of such tax shall be deducted as an allowance for evaporation and other loss of gasoline handled by such dealer. *Except as hereinbefore expressly provided all the covenants herein agreed to be performed by the State of Montana shall be for the equal benefit, protection and security of the legal holders of all such debentures and coupons and all debentures issued hereunder shall be of equal rank without preference, priority or distinction as to the benefit, protection and security of this act, regardless of the maturity of such debentures or of the time or times of their issuance and regardless of any provision or limitation contained in any existing law of the State of Montana pertaining to*

Deduction for evaporation or other loss of gasoline handled.

Debentures shall be of equal rank.

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the imposition of such gasoline license tax or to the period of time during which same shall be effective.

Section 2. That all laws or parts of laws in conflict with the provisions hereof be and the same are to the extent of any such conflict repealed. Repealing clause.

Section 3. Whereas, in order for the State of Montana to accept and enjoy the benefits of the provisions of Acts of Congress of the United States in reference to the construction, betterment and maintenance of highways of the State and to assure the ability of the State of Montana to secure monies allocated to the State or to be made available to the State by Acts of the Congress of the United States for road and highway purposes, it is necessary that the State of Montana provide for the matching of federal aid, and there being no existing law in the State of Montana enabling the State or any of its agencies to promptly and effectively avail itself of such federal aid, it is hereby found, declared and determined that this act be and the same is hereby declared an emergency measure and shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 17, 1939.

CHAPTER 31

An Act Confirming the Powers Heretofore Conferred Upon the State Board of Examiners Relating to the Montana State Tuberculosis Sanitarium and Authorizing Their Execution; Providing for the Construction of Additions and Improvements to the Montana State Tuberculosis Sanitarium; Authorizing the Present Issuance of Revenue Bonds in the Principal Amount of Fifty-one Thousand Dollars ($51,000.00) for the Payment Thereof, Constituting the Remaining Revenue Bonds Authorized by Chapter 22, Laws of Montana, Extraordinary Session, 1933-34; Directing That Said Revenue Bonds Be Issued in Accordance With Chapter 22, Laws of Montana, Extraordinary Session, 1933-34, Prescribing Details in Connection Therewith and Declaring an Emergency.

Be it enacted by the Legislative Assembly of the State of Montana:

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State board of examiners authorized to construct additions to tuberculosis sanitarium.

Section 1. The state board of examiners, hereinafter in this act termed the board, is hereby authorized and empowered to construct additions and improvements to the Montana state tuberculosis sanitarium, the cost of such construction to be paid wholly by means of or with the proceeds of the revenue bonds hereinafter described and the other funds provided under the authority of Chapter 22, Laws of Montana, extraordinary session, 1933-1934.

Revenue bonds.

Section 2. That the board be and it hereby is authorized to provide by resolution for the issuance of revenue bonds in the aggregate principal amount of not exceeding fifty-one thousand dollars ($51,000.00), for the purpose of paying the cost of the construction of such additions and improvements, said revenue bonds constituting the unissued revenue bonds authorized by Chapter 22, Laws of Montana, extraordinary session, 1933-1934.

Amount of bonds.

Section 3. Said revenue bonds in the aggregate principal amount of not exceeding fifty-one thousand dollars ($51,000.00), shall be executed, issued, sold and delivered in accordance with the terms of said Chapter 22, Laws of Montana, extraordinary session, 1933-1934, and shall be payable from the sinking fund created by the board in accordance with the terms of said act.

Emergency declared.

Section 4. It is hereby determined that the emergency declared to exist by Section 8 of said Chapter 22, Laws of Montana, extraordinary session, 1933-1934, does still exist by reason of the economic depression which has caused unemployment and consequent indigence and dependency of a large portion of the people of this State, and in that the Montana state tuberculosis sanitarium is not able to care for a large number of patients who should be admitted thereto, and that the construction of additions and improvements to the said Montana state tuberculosis sanitarium will be conducive to the welfare of the State, the relief of the unemployed and destitute, and the public health, safety, convenience and welfare of the people.

Powers of board confirmed.

Section 5. The powers heretofore conferred upon the state board of examiners under and by virtue of Chapter 22, Laws of Montana, extraordinary session, 1933-1934, are hereby confirmed, and their present execution is hereby authorized and directed.

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Section 6. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 7. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 16, 1939.

CHAPTER 32

An Act to Amend Section 5161, Revised Codes of Montana of 1935, Providing for Park Commissioners—Appointment and Organization—Records and Reports.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5161 of the Revised Codes of Montana of 1935, be, and the same is hereby amended so as to read as follows: Sec. 5161, R. C. 1935, amended.

"Section 5161. **Park Commissioners—Appointment and Organization—Records and Reports.** There may be created in all cities of the first and second class a board of park commissioners, whether such cities be a council form of government or city manager form, which shall be composed of the mayor or city manager of the city and six other persons, to be appointed by the *mayor or city manager of the city with the approval of the city council.* The six persons so to be appointed shall have the same qualifications for the office of park commissioners as are required by Section 5004 of this Code, for the office of mayor or city manager. The term of office of each park commissioner shall be two years from and after the first day of May of the year in which he is appointed, and until his successor is appointed and qualified, save and except that three of the commissioners first appointed shall hold office for the period of one year from and after the first day of May, *1940,* and until their successors are appointed and qualified. Such board of park commissioners shall constitute a department of the city government with the powers in this act provided. Before entering upon the discharge of his duties, each park commissioner shall take and subscribe the oath provided by Section 430 of these Codes, which oath shall be filed in the office of the city clerk. Board of park commissioners. Term of office.

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Organization of board.

"On the first Monday in May in each year, said board of park commissioners shall meet and organize by electing one of their number president, and one of their number vice-president, who shall hold their offices respectively for the term of one year. The president, and in his absence, the vice-president, shall preside at all meetings of the board, and shall countersign all warrants issued by the board, and perform such other duties as shall be required and directed by the board. The city clerk shall be ex-officio clerk of the board of park commissioners, and shall attend all meetings of said board and keep correct minutes of all proceedings of said board in a book to be provided for that purpose by it, to be called 'record of board of park commissioners of the city of .....'. It shall be the duty of the city clerk, as such clerk of the board of park commissioners, to keep an accurate account of all transactions of said board separate from other city accounts, and to make and submit in writing to said board at the first meeting in January in each year a report under oath showing in detail all the receipts and disbursements made by the board during the year, which report shall be in duplicate, and after being approved by said board, one of said duplicates shall be filed in the office of the city clerk and one in the office of the city treasurer, and he shall perform such other services as the board shall require. In the absence of the clerk at any meeting held by the board, it shall designate one of its number as clerk pro tem. to keep the minutes of said meeting, which minutes shall be delivered to the clerk to be transcribed into the record book of said board. The minutes of said meeting in said record book contained, when approved by the board, shall be prima facie evidence of the matters and things therein recited in any court of this State."

Duties of officers.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1939.

CHAPTER 33

An Act to Amend Section 2122.9 of the Revised Codes of Montana, 1935, Relating to Appeals to the State Board

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of Equalization: Providing for Hearings Thereon and Reference Thereof and Authorizing the Employment of a Reporter for Such Hearing.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2122.9 of the Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows:

Sec. 2122.9, R. C. 1935, amended.

"Section 2122.9. Any person, firm or corporation or the board in behalf of the State, or any municipal corporation, aggrieved by the action of any county board of equalization, may appeal to the state board by filing with the county board a notice of appeal, and a duplicate thereof with the state board, within *ten* days after the action of the county board, which notice shall specify the action complained of and the reasons assigned for such complaint. *The state board shall set such appeal for hearing either in its office in the capitol or such county seat as the board shall deem advisable to facilitate the performance of its duties or to accommodate parties in interest, and shall give to the appellant and to the county board at least five days notice of the time and place of such hearing; at the time of giving such notice* the state board may require the county board to certify *to it* the minutes of the proceedings resulting in such action and all testimony taken in connection therewith, *and the state board may, in its discretion, determine the appeal on such record or may* hear further testimony. *For the purpose of expediting its work the state board may refer any such appeal to one of its members, to its secretary, counsel or chief auditor for the conduct of such hearing, and the person so designated shall have and exercise all the powers of the board in conducting such hearings, and shall, as soon as possible thereafter, report the proceedings, together with a transcript of the testimony received, to the board and the state board shall determine such appeal on the record so made. On all hearings at county seats throughout the State, the state board or the person designated to conduct a hearing may employ the local court reporter or other competent stenographer to take and transcribe the testimony received, and the cost thereof may be paid out of the general appropriation for the board.''*

Appeal to state board.

Hearing.

To whom appeal may be referred for hearing.

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Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1939.

CHAPTER 34

An Act to Amend Section 2000.4 of the Revised Codes of Montana, 1935, Relating to Deductions in Ascertaining the Value of Shares of National Bank for Taxation.

Be it enacted by the Legislative Assembly of the State of Montana:

Value of shares of national bank, deduction.

Section 1. That Section 2000.4 be and the same is hereby amended to read as follows: Section 2000.4. In ascertaining the value of the shares of a national bank for the purpose of taxation there shall be deducted the *book* value of all real estate of said bank, which shall be assessed to said bank.

Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1939.

CHAPTER 35

An Act Relating to the Abolishment of Special Road Districts, and Repealing Sections 1652, 1653, 1654, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1663, 1664, 1665, 1666, 1667, 1668, 1669, 1670, 1671, 1672, 1673, 1674, 1674.1, and 1675 of the Revised Codes of Montana, 1935, and Repealing All Acts in Conflict.

Be it enacted by the Legislative Assembly of the State of Montana:

Special road districts abolished.

Section 1. All special road districts are hereby dissolved, disincorporated, and abolished.

Certain sections of Revised Codes, 1935, repealed.

Section 2. Sections 1652, 1653, 1654, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1663, 1664, 1665, 1666, 1667, 1668, 1669, 1670, 1671, 1672, 1673, 1674, 1674.1, and 1675 of the Revised Codes of Montana, 1935, are hereby repealed.

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Section 3. All property—funds or accruing funds—shall become the property of the county, and all funds shall be transferred to the county general road fund; and all legal liabilities of said special road district shall become the liability of the county. Property and liability transferred to county.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 5. This act shall take effect June 30, 1939. Effective date.

Approved February 17, 1939.

CHAPTER 36

An Act to Amend Section 5229, Revised Codes of Montana, 1935, Relating to Protests Against Special Improvements in Cities and Towns, so as to Empower the City or Town Council, Commission or Other Governing Body, to Overrule All Protests Where the Proposed Improvement Is for not More Than One Block of Pavement and Incidentals to Connect With Streets or Avenues Already Paved for Three Blocks or More; Providing That in Case the Improvement Proposed Is the Construction of a Sanitary Sewer, no Protests Shall Be Effective Unless Made by Owners of More Than Seventy-five Per Cent of the Property Affected, and Providing for the Withdrawal of Protests.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5229, Revised Codes of Montana, 1935, be, and the same is hereby amended so as to read as follows: Sec. 5229, R. C. 1935, amended.

"Section 5229. **Protests Against Proposed Work.** At any time within fifteen days after the date of the first publication of the notice of the passage of the resolution of intention, any owner of property liable to be assessed for said work may make written protest against the proposed work, or against the extent or creation of the district to be assessed, or both. Such protest must be in writing, and be delivered to the *clerk of the city or town council or commission, not later than 5 o'clock P. M. of the last day within said fifteen days period, and said clerk* Protests against proposed work.

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shall endorse thereon the date *and hour* of its receipt by him. At the next regular meeting of the city *or town* council *or commission* after the expiration of the time within which said protest may be so made, the city *or town* council *or commission* shall proceed to hear and pass upon all protests so made, and its decision shall be final and conclusive; provided, however, that, *except as hereinafter provided,* when the protest is against the proposed work, and the cost thereof is to be assessed *against* property fronting thereon, and the city *or town* council *or commission* finds that such protest is made by the owners of *more than* forty per cent of the property fronting on the proposed work, or when the protest is against the proposed work, and the cost thereof is to be assessed upon the property within an extended district, and the city *or town* council *or commission* finds that such protest is made by the owners of more than forty per cent of the area of the property to be assessed for said improvements, no further proceedings shall be taken for a period of six months from the date when said *sufficient* protest *shall have been* received by said clerk of the city *or town* council *or commission; provided, however, that when the improvement proposed is the paving, with necessary incidentals, of not more than one (1) cross block, to connect with streets or avenues already paved for a continuous distance of three (3) blocks or more running a right angle, or substantially so, with the single cross block so proposed to be paved, in such case the city or town council or commission shall have the right to overrule any and all objections and pave the proposed block with gravel and oil surface; and provided, too, that* in case the *improvement is* the construction of *a sanitary sewer such* protest may be overruled by an affirmative vote of a majority of the members of the city *or town* council *or commission;* unless such protest is made by the owners of more than *seventy-five* per cent of the property affected as herein provided, in which event the protest must be sustained as to the construction of such sanitary *sewer.*

Proviso, as to when council or commission may overrule objections.

"In determining whether or not sufficient protests have been filed on a proposed district to prevent further proceedings therein, property owned by a county, city, or town shall be considered *to* the same *effect* as other property in the *proposed* district. The city *or town* council *or commission* may adjourn said hearing from time to time *and*

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protestants shall have the right to withdraw protest or protests at any time before final action thereon by the city or town council or commission.''

Withdrawal of protests.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 17, 1939.

CHAPTER 37

An Act to Amend Section 4622.1 Revised Codes of Montana, 1935, Relating to the Investment of Sinking Funds of Counties, Cities and Towns.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4622.1, Revised Codes of Montana, 1935, be, and the same is hereby amended so as to read as follows:

Sec. 4622.1, R. C. 1935, amended.

"Section 4622.1. **Investment of Sinking Funds of Counties, Cities and Towns—Protection and Keeping of Securities.** That the board of county commissioners of any county of the State of Montana, and the council *or commission* of any city or town of the State of Montana, shall have the power and authority and shall invest so much of the bond sinking funds of any such county, city or town, as is not needed for the payment of *bonds or* interest coupons, in United States Government bonds or securities, State bonds or securities, county, city or *school district* bonds *or county or city warrants* or other bonds or securities which are supported by general taxation, except irrigation district bonds, *and special improvement district or maintenance district bonds or warrants,* provided, however, that all such investments must first be approved by the state examiner, and that all such bonds or securities must be due and payable at least *sixty (60)* days before the obligations, *for the payment of which* the sinking fund was established, shall become due and payable; *and provided further, that whenever any of the bonds, for which such sinking fund was established, are not yet*

Investment of sinking funds of counties, cities and towns.

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due but are then redeemable under optional provisions thereof, such sinking funds shall not be subject to investment but shall be used and applied in payment and redemption of such bonds. The bonds and securities in which any such sinking funds are invested shall be kept in the custody of the county, city or town treasurer and held by him for the benefit of the county, city or town, as the case may be. It shall be the duty of such treasurer to properly protect such bonds and securities by insurance, the use of safety deposit boxes, or other means, the expense of which shall be a proper charge against the particular county, city or town. All moneys derived from interest on sinking fund investments as herein authorized, shall be credited by the treasurer of such county, city or town, to the sinking fund for which the investment was made."

Custody and protection of bonds and securities.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1939.

CHAPTER 38

An Act Relating to the Employees of the Supreme Court of the State of Montana, and Amending Section 366, Section 367, Section 368, Section 377 of the Revised Codes of Montana, 1935, Relating to the Duties of the Supreme Court Marshal and the Supreme Court Attendant, and Amending Section 1569 of the Revised Codes of Montana, 1935, Relating to the Appointment and Duties and Qualifications of the Assistant State Law Librarian, and Repealing All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 366, R. C. 1935, amended.

Section 1. That Section 366 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Marshal of supreme court.

"Section 366. **Marshal of the Supreme Court.** The supreme court must appoint a marshal of the supreme court, who holds the office at the pleasure of the court."

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Section 2. That Section 367 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 367, R. C. 1935, amended.

"Section 367. It shall be the duty of the marshal to attend upon the supreme court and the justices thereof at each term of court. He shall be the executive officer of the court, and act as crier thereof. He must serve within the state all returns and processes issuing from the supreme court and shall have all the powers and exercise all the duties pertaining to sheriffs as to the district courts so far as the same are applicable. *He shall act as a law clerk for the supreme court justices.*"

Duty of marshal.

Section 3. That Section 368 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 368, R. C. 1935, amended.

"Section 368. The annual salary of the marshal of the supreme court for all services now required of him *shall be fixed, at that figure the supreme court shall deem reasonable, provided that the salary per annum shall not exceed twenty-four hundred dollars ($2400.00), by the supreme court of the State of Montana.* When serving process of court beyond the place where the court is held, in cases in which the State, a county, or any subdivision thereof, or any officer when prosecuting or defending an action on behalf of the State, county, or subdivision thereof, is not a party, the marshal is entitled to receive the same mileage as provided by law for sheriffs in performing similar services, to be taxed as costs, as in other cases; in cases in which the State, a county, or any subdivision thereof, or any officer when prosecuting or defending an action on behalf of the State, a county, or any subdivision thereof, is the real party in interest, he shall be entitled to receive his actual expenses incurred in serving such process, to be paid from the fund appropriated for expenses of the supreme court not otherwise provided for."

Salary of marshal.

Mileage.

Section 4. That Section 377 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 377, R. C. 1935, amended.

"Section 377. *The supreme court must appoint a court attendant, who shall hold office at the pleasure of the court, and who shall act as law clerk to the supreme court jus-*

Court attendant.

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tices, and perform any and other duties prescribed by the supreme court. Whenever the clerk of the supreme court is incapacitated or absent, the attendant of the supreme court is hereby authorized to perform all the functions and duties of said clerk. *Salary for all the duties now required of the court attendant shall be fixed at that figure the supreme court shall deem reasonable and just, provided that the salary per annum shall not exceed twenty-four hundred dollars ($2400.00).''*

Salary.

Section 5. That Section 1569 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

''Section 1569. To carry out the provisions of this act, the librarian of the law department of the state library is hereby authorized and empowered to employ an assistant *who shall, in addition to the duties imposed by the provisions of this chapter, act as a law clerk for the justices of the supreme court and shall perform any and other duties prescribed by the supreme court. The salary shall be fixed at that figure the board of trustees of the state law library shall deem reasonable, provided, however, that the salary per annum shall not exceed twenty-four hundred dollars ($2400.00).''*

Assistant law librarian.

Salary.

Repealing clause.

Section 6. That all acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 7. That this act shall be in full force and effect from and after its passage and approval.

Approved February 21, 1939.

CHAPTER 39

An Act Providing for the Greater Security for the Payment of Salaries and Wages by Employers Engaged in the Business of Extracting, or Extracting and Refining or Reducing Metals and Minerals or Mining for Coal or Drilling for Oil, Except Such Employers Who Have a Free and Unencumbered Title to Not Less Than One-half (½) Interest in the Fee of the Property Being Worked, and Providing for the Filing of Statements by Persons, Firms, Partnerships or Corporations, With the Commissioner of Labor and County Clerks and

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Recorders and Providing a Penalty for the Violations or Failure to File Said Statement.

Be it enacted by the Legislative Assembly of the State of Montana:

Chap. 264 of political code, R. C. 1935, extended to those engaged in certain mining activities.

Section 1. For the purposes of this act, all the provisions of Chapter 264, Political Code of the Revised Codes of Montana, 1935, shall extend to and govern every person, firm, partnership or corporation engaged in the business of extracting, or of extracting and refining or reducing metals and minerals, or mining for coal, or drilling for oil, save and except such persons, firms, partnerships or corporations as have a free and unencumbered title to not less than one-half (½) the fee of the property being worked; for this purpose outstanding unpaid or unredeemed tax sale certificate shall not be considered an encumbrance.

Operators shall file verified statement with the commissioner of labor.

Section 2. Every person, firm or partnership coming within the provisions of this act shall before commencing operations, file with the commissioner of labor of the State of Montana and also in the office of the county clerk and recorder of each county where such operations are to be carried on, a verified statement showing the names and addresses of each party interested therein, or, if a corporation, the names and addresses of its officers and directors, the principal place of business of such corporation and the names and addresses of the person, or persons, resident of Montana, designated as the person, or persons, upon whom service of process may be made.

Penalty for failure to file such statement.

Section 3. Every person, firm, partnership or corporation failing to file a statement with the commissioner of labor and in the offices of the county clerks and recorders, as provided in Section 2 of this act shall be deemed guilty of a misdemeanor and punishable as provided by law.

Commissioner of labor may report violations to county attorney.

Section 4. Whenever it shall appear from reliable information satisfactory to the commissioner of labor of the State of Montana that any person, firm, partnership or corporation engaged in the business mentioned in Section 1 hereof, and not exempt from the effect of this act, shall have failed to pay any wages or salaries due his employees as required by Chapter 264 of the Political Code of the Revised Codes of Montana for 1935, he shall

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have the right to deliver such information to the county attorney of the county wherein the operations of the employer are being carried on and to request such county attorney to file a complaint in the district court of said county in accordance with the provisions of this act and said Chapter 264. Should such complaint be filed by the county attorney upon his own motion, or at said request of said commissioner of labor, the same shall pray that relief be had against the employer for the greater security for the payment of salaries and wages of the employees; provided, however, that any such employees may make complaint direct to the county attorney relative to any violation of this act or of said Chapter 264. If said county attorney believes, after receiving said information, that the provisions of Chapter 264 of the Revised Codes of Montana for 1935, or any thereof, have been violated, and that such violation or violations of said Chapter was or were wilful, or that the financial condition of the employer is such as to endanger employees in receiving prompt payment or collection of wages, it shall be his duty to file the complaint aforesaid in said district court. The county attorney of the county shall promptly notify the commissioner of labor of any complaint made by any employee relative to the violation of any of the provisions of this act or said Chapter 264, and shall in writing keep said commissioner of labor advised of each step in any proceeding taken by said county attorney thereunder. Upon the filing of such complaint, summons shall issue thereon and a copy of such complaint and a copy of the summons shall be served upon the employer who shall have ten (10) days after such service to appear and defend such action. All proceedings upon such complaint shall be promptly prosecuted.

Duty of county attorney.

Section 5. Upon the conclusion of the hearing upon such complaint, the judge of the district court may make findings and shall issue an order to the employer in default to pay within five (5) days all wages and salaries found by the court to be due and unpaid; or an order to appear before the court within ten (10) days and show cause why a judgment and order should not issue requiring said employer to give bond for the payment of all wages and salaries then due and thereafter to accrue to his employees within said county. Service of such

District court proceedings.

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order shall be made at least five (5) days before the date set for hearing or the date to which such hearing may be continued by the court upon good cause shown.

Hearing and decree.

Section 6. Upon the hearing of such order, if the court shall determine that the default of said employer in the payment of wages and salaries was wilful, or that the financial condition of the employer is such as to endanger or delay or impede employees in collecting their wages and salaries, or that the employer is a non-resident of the State of Montana without visible property in said county subject to execution, or who has within two (2) years defaulted in payroll payments, the court may adjudge and decree that the employee or employees are endangered in the collection of their just demands, and the court may issue a restraining order against the employer forbidding further prosecution of operations by said employer until after the employer has furnished a good and sufficient bond, in form to be approved by the court with good and sufficient surety or sureties who can and do legally justify, and deposit said bond with the clerk of court of said county, obligating the employer to pay all wages and salaries as required by said Chapter 264. Said bond may be that of a surety company licensed and authorized to do business within the State of Montana, or of two (2) owners of real estate situate in said county and who can and do justify as sureties in the same manner as sureties justify on appeal bonds or bail bonds. Said bond shall be in the sum of not less than five hundred dollars ($500.00) for each unit of five (5) men or less employed by such person, firm, partnership, or corporation. Any person whose wages or salary has remained unpaid for fifteen (15) days or more after due, shall have a right to sue upon said bond for the recovery of his wages or salary. Said bond shall continue in force for one (1) year. Said bond shall run in the name of the State of Montana and shall be examined and approved by the judge of the district court, said approval to be endorsed thereon; provided, however, that nothing contained in this act shall be considered as requiring any person, firm, partnership or corporation to file a bond or bonds if he or it pays for all labor in full each day, or where such labor has been performed upon a written building or construction contract to furnish material or other consideration as well as labor; provided,

Restraining order.

Employer's surety bond.

No bond required, when.

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however, that nothing herein shall prohibit the making or entering into of any wage or working agreement, such as grubstake agreements and/or similar agreements; provided such employer or contractor keeps in force proper workmen's compensation insurance.

Service of process.

Section 7. All orders and other process provided for in this act shall be served by the sheriff upon the employer in the same manner as a summons in a civil suit is served; service upon any partner or member of any firm shall be considered service upon each partner and each member of the firm. In the event that the employer is a non-resident, or a corporation without officers or directors within the county, who cannot conveniently and promptly be found for service, then service upon the manager, superintendent or foreman in charge of the work, or, there being none such, then posting a copy of the order, or other process provided to be served herein, in a conspicuous place at or near the entrance to the principal workings shall be deemed sufficient service.

Section 8. In the event that the bond ordered by the district court is not executed and filed with the county treasurer within the time fixed by the court, the court may, if he deems the persons working for such employer to be insecure in the prompt payment or collection of their wages or salaries, enjoin any and all further operations of said employer within the State of Montana, for a period of one (1) year, at any mine or reduction works, or oil well or until the order, judgment or decree of the court shall have been fully complied with. The said district court shall include in any order, judgment or decree against the employer, all costs of the proceeding, which shall be taxed against the employer and paid into the clerk of the court to be by him deposited with the county treasurer to the credit of the general fund of the county. The county attorney of the county wherein such proceedings are had, or the attorney general of the State, shall, at his or their discretion, file such action and prosecute the same.

Further operations may be enjoined, when.

Duty of county attorney.

Employer may be punished for contempt of court.

Section 9. In event the employer fails for thirty (30) days or more to pay the costs of the proceeding and/or fails to furnish the bond required by the court, the court may proceed against and punish said employer for contempt of court.

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Section 10. In the discretion of the court, it may order the clerk of the court to publish a brief notice or memorandum in a newspaper published in the county, of the entry of the order against the employer, requiring said employer to furnish said bond, said publication shall be for four (4) consecutive weeks. The cost of such publication shall be assessed against the employer as one of the costs of the proceeding.

Publication of notice requiring employer to furnish bond.

Section 11. In event any person whose wages or salary has remained unpaid for fifteen (15) days or more after due, shall bring suit as in Section 6 provided, the court shall assess as costs against the unsuccessful party a reasonable attorney fee.

Attorney fee to be assessed as costs.

Section 12. In event any employer against whom an order to furnish the bond described in this act feels aggrieved by any order or injunction of the district court, he shall be entitled, upon payment for the transcript of record, to have his objections and exceptions reviewed and determined by the supreme court as upon a writ of certiorari.

Review by supreme court.

Section 13. The remedy herein provided for the greater security for the payment of wages and salaries and the collection thereof, shall be in addition to any remedy now provided by law for the payment and collection of wages and salaries.

Remedy provided by this act is cumulative.

Section 14. If any section of this act, or part thereof, shall be declared invalid or unconstitutional, it shall not affect the other sections or parts hereof, but such sections not so invalidated shall remain in full force and effect.

Act is severable.

Section 15. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 21, 1939.

CHAPTER 40

An Act Providing That a Copy of the Judgment and the Orders of the Court Suspending Sentence Be Sent to the State Board of Prison Commissioners and the Bureau of Identification at the State Prison or the

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Institution to Which the Defendant Would Have Been Committed But for the Suspension of Sentence.

Be it enacted by the Legislative Assembly of the State of Montana:

Duty of clerk of court to mail copy of judgment in case sentence of imprisonment is suspended.

Section 1. When any judge has suspended a sentence of imprisonment as provided in Section 12078 of the Revised Codes of Montana, 1935, as amended by Chapter 184 of the Laws of 1937, and has not ordered the prisoner placed under the jurisdiction of the state board of prison commissioners, but has retained jurisdiction with the court, the clerk of said court shall nevertheless mail a full copy of the judgment of the court and the order suspending the sentence and certify the same to the state board of prison commissioners and bureau of identification at the state prison, or if the defendant would have been confined to an institution other than the state prison, then a copy shall be sent to the institution to which said court would have committed the defendant but for the suspending of the sentence.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 21, 1939.

CHAPTER 41

An Act to Amend Section 15 of Chapter 84 of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana, Authorizing the Montana Liquor Control Board to Charge and Collect an Excise Tax on All Liquor Sold by It.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 15, Chap. 84, laws of 1937, amended.

Section 1. That Section 15 of Chapter 84 of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana, be, and it is hereby amended to read as follows:

Board to collect an excise tax of eight per centum of retail selling price of liquor.

"Section 15. The Montana liquor control board is hereby authorized and directed to charge, receive and collect at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the

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State of Montana an excise tax at the rate of *eight per centum of the retail selling price* on all liquor so sold and delivered. The Montana liquor control board shall retain the amount of such excise tax received in a separate account and shall deposit with the state treasurer, to the credit of the general fund, such sums so collected and received not later than the tenth (10th) day of each and every month."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect after its passage and approval.

Approved February 21, 1939.

CHAPTER 42

An Act Establishing a State Blind Commission and Designating Said Commission, to Cooperate With the Federal Government as the Agency of the State of Montana in the Administration of the Randolph-Shephard Act, Approved June 20th, 1936, and in the Administration of Any Other Federal Acts, and Authorizing Said Commission to Cooperate With Any Departments of the State of Montana for the Purpose of Improving the Condition of the Adult Blind, Who by Reason of Age, Are Ineligible to Attend the Montana School for the Deaf and Blind, by the Rehabilitation and Vocational Training of the Blind of Montana, and the Prevention of Blindness, and Prescribing the Powers and Duties of Said Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Creation of a commission for the blind.

Section 1. **Creation of a Commission for the Blind.** There is hereby created a state department for the blind, to be known as the Montana state commission for the blind, hereinafter referred to as the commission, which shall be charged with the duty of promoting the welfare of blind persons by the rehabilitation and vocational training of the adult blind, in the manner hereinafter set forth.

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Appointment of commission.

Section 2. **Appointment of a Commission: Compensation.** The commission for the blind shall consist of five members, of which three shall be, ex-officio, the president of the Montana school for the deaf and blind; the state supervisor of rehabilitation; the administrator of the state department of public welfare, respectively; and the terms of office of the ex-officio members shall be coincident with their tenures of the aforesaid positions. The chairman of the commission shall be the president of the Montana school for the deaf and blind.

The remaining members of the commission, of whom one at least shall by preference be a blind person, shall be appointed by the governor within thirty days after the passage of this act. The full term of office of the appointed members of the commission shall be three years; but of the first commission appointed one member shall be appointed for a term of two years, one for a term of one year. At the expiration of the term of any member of the commission his successor shall be appointed for a term of three years. Any appointed member may be reappointed to succeed himself.

Compensation and expenses.

The members of the commission shall receive no compensation for their services, but shall be reimbursed for their traveling and other necessary expenses incurred in the performance of their official duties.

Cooperation with federal government.

Section 3. **Cooperation With Federal Government.** The commission is hereby designated the agency of the State of Montana, to cooperate with the Federal Government in the administration of the Randolph-Shephard act approved June 20th, 1936, and in the administration of any other federal acts, and shall cooperate with any departments of the State of Montana, having for their purposes the improving of the condition of the blind of the State of Montana by rehabilitation and vocational training, and said commission is empowered and authorized to apply to such federal and state departments for, and to receive from them, any benefits to which said commission may be entitled.

Location of commission office.

Section 4. **Location of Commission Office.** Subject to the approval of the state board of education, the commission may have its office at the Montana school for the deaf and blind, and shall within thirty days after its creation, meet and appoint a secretary, and a treas-

Secretary and treasurer.

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urer who shall be bonded and shall adopt all necessary rules and regulations to govern itself by, and shall proceed to carry out the purposes for which it is created. The commission shall meet not less than four times each calendar year at regular intervals which shall be determined at the first meeting.

Meetings of the commission.

Section 5. **Employees of the Commission—Vocational Training.** The commission shall appoint a state supervisor for the blind, and such other officers as may be necessary and fix their compensation within the limits of the annual appropriation, in all cases giving preference to blind persons of equal efficiency, but no person employed by the commission shall be a member thereof. The state supervisor of the blind may establish under the supervision, and at the direction, of the commission one or more training schools and workshops for the training and employment of suitable blind persons, and shall be empowered to equip and maintain the same, to pay to employees suitable wages, and to devise means for the sale and distribution of the products thereof. The commission may also pay for tuition, lodging, support, and all necessary expenses for blind persons during their training or instruction, whenever in the judgment of the commission such training or instruction will contribute to the efficiency or self-support of such blind persons. When special educational opportunities cannot be had in this State, they may be arranged for, at the discretion of the commission, outside of the State. The commission may also aid individual blind persons or groups of blind persons to become wholly or partially self-supporting, by loaning or renting materials or machinery to them necessary to carry on their work, and may also assist them in the sale and distribution of their products; but this shall not be deemed to authorize the making of gifts by the commission.

Employees of the commission.

State supervisor for the blind.

Tuition and other expenses of blind persons during their training.

Section 6. **Duties of the Commission.** It shall be the duty of the commission through its employees to maintain a complete register of the blind in the State of Montana, which shall describe the condition, cause of blindness, capacity for education, and industrial training of each, with such other facts as may seem to the commission to be of value.

Duties of the commission.

The commission shall cause to be maintained by the state supervisor of the blind, one or more departments

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of vocational aid, the object of which shall be to aid the blind in finding employment, and to teach them trades and occupations which may be followed in their homes or elsewhere, and to assist them in disposing of the products of their home industries.

Definition of blindness.

Section 7. **Definition of Blindness.** For the purpose of this act the term of "blind person" means a person having not more than ten percentum visual acuity in the better eye with correction. Such blindness shall be certified by a duly licensed ophthalmologist.

Cooperation of the Montana school for deaf and blind.

Section 8. **Cooperation of the Montana School for Deaf and Blind.** Upon the recommendation of the president and the local executive board of the Montana school for the deaf and blind and approval of the state board of education such facilities as may be available at the Montana school for the deaf and blind in carrying out the purposes of this act may be used by the commission. The commission shall compensate the school for the deaf and blind for any services rendered and expenses incurred in its behalf at the actual cost thereof, subject to the approval of the state board of education. All such activities shall conform to rules and regulations determined by the local executive board of the school.

Accounts and audit for industries.

Section 9. **Accounts and Audit for Industries.** The commission shall keep separate books of account for its industries and may use all moneys received from sale of any products made at its workshops or from the sale of the products made under supervision to which it has title, for the purpose of carrying on its industries. The state bank examiner of Montana, or some person authorized by him, shall at least once each year and oftener if he deems it advisable, examine the books, accounts and vouchers of the commission.

Commission may receive gifts.

Section 10. **Commission May Receive Gifts.** The commission shall have authority to receive any donations, grants, or gifts of property, real or personal, from any source whatsoever, provided said donations, grants, or gifts shall be for the carrying out of the purposes of this act.

Purpose of act.

Section 11. **Purpose of Act.** It is hereby declared that it is the purpose of this act to establish an adequate State system for the rehabilitation and vocational train-

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ing of the adult blind of the State of Montana under the direct supervision of the commission of the blind to take advantage of any federal or state aid granted for the rehabilitation and vocational training of the blind.

Act is severable.

Section 12. If any section, provision, or clause of this act shall be declared invalid, such invalidity shall not be construed to affect the portions of this act not so held invalid.

Repealing clause.

Section 13. That all acts and parts of acts in conflict herewith, are hereby repealed.

Effective date.

Section 14. This act shall be in force and effect from and after its passage and approval.

Approved February 21, 1939.

CHAPTER 43

An Act to Amend Sections 5118 and 5119 of the Revised Codes of Montana, 1935, Relating to Disability and Pension Funds of Fire Department Relief Associations and the Tax Levy for Maintaining Same.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5118, R. C. 1935, amended.

Section 1. That Section 5118 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Disability and pension fund of fire department relief association.

"Section 5118. The disability and pension fund of the fire department relief association of such city or town shall consist of *all bequests, fees, gifts, emoluments or donations given or paid to such fund, or any of its members, except as otherwise designated by the donor, and a monthly fee which shall be paid into the fund by each paid member and part paid member of said fire department relief association amounting to three (3) per cent of his regular monthly salary, the proceeds of a tax levy as provided by Section 5119 of this act, and all monies received from the State of Montana as provided for by Section 5127, and the interest of any portion of said fund.*"

Sec. 5119, R. C. 1935, amended.

Section 2. That Section 5119 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

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Special tax for maintaining disability and pension fund.

"Section 5119. For the purpose of maintaining said disability and pension fund of such fire department relief association, in an amount equal to *one per centum (1%)* of the taxable valuation of all taxable property within the limits of the city, town or municipality, the city or town council or the commission or other proper authority of any municipality that is now or may hereafter be established under special or local law passed by the legislative assembly and adopted by the electors entitled to vote thereon, *shall,* annually, at all times when the said relief association fund contains an amount less than *one per centum (1%)* of the taxable valuation of all taxable property within the limits of the city, town or municipality, in the manner provided by law, and at the time of the levy of the annual tax, levy a special tax of *not to exceed one (1) mill on the dollar* upon the taxable valuation of all taxable property assessed for taxes within the limits of said city, town or municipality, which said *tax* shall be collected as other taxes and when so collected shall be paid into the disability and pension fund of the fire department relief association of said city, town or municipality."

Effective date.

Section 3. That this act shall be in full force and effect from and after July 1, 1939.

Approved February 21, 1939.

CHAPTER 44

An Act to Amend Section 10039 of the Revised Codes of Montana, 1935, Relating to Probating of Foreign Wills.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 10039, R. C. 1935, amended.

Section 1. That Section 10039 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Wills proved in other states to be recorded, when and where.

"Section 10039. **Wills Proved in Other States to Be Recorded, When and Where.** All wills duly proved and allowed in any other of the United States, or in any foreign country or state, may be allowed and recorded in the district court of any county in which the testator shall have left any estate, *or shall have been a resident at the time of his death.*"

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 21, 1939.

CHAPTER 45

An Act to Amend Section 5486 Revised Codes of Montana, 1935, Relating to Sewer, Water, Gas and Other Connections in Cities and Towns Under Commission-Manager Form of Municipal Government, and Giving Such Cities and Towns Ordering and Making Such Connections Power to Divide the Cost Thereof Into Not to Exceed Eight Annual Payments, With Interest on the Deferred Payments at Not to Exceed Six Per Cent Per Annum, Payable Annually.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5486 of the Revised Codes of Montana, 1935, be, and the same is hereby amended so as to read as follows: Sec. 5486, R. C. 1935, amended.

"Section 5486. **Sewer, Water, Gas, or Other Connections—Notice to Property Owners—Service and Contents.** The director of public service shall have authority to compel the making of sewer, water, gas, and other connections whenever, in view of the contemplated street improvements or as a sanitary regulation, sewer, water, gas, or other connections should in his judgment be constructed. He shall cause written notice of his determination thereof to be given to the owner of each lot or parcel of land to which such connections are to be made, which notice shall state the number and character of connections required. Such notice shall be served by a person, designated by the director of public service, in the manner provided for the service of summons in civil actions. Non-residents of the municipality, or persons who cannot be found, may be served by one publication of such notice in a daily newspaper of general circulation in the municipality, if such there be, and if not, by one publication in a weekly newspaper. The notice shall state the time within which such connections shall be constructed; and if they be not constructed within the said

Sewer, water, gas, or other connections.

Notice to property owners, service and contents.

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time, the work may be done by the municipality, and the cost thereof, together with a penalty of five per cent., assessed against the lots and lands for which such connections are made; *provided, that the city commission may in its discretion order and direct that the cost of making any such connection by the municipality may be assessed without penalty and may be paid in annual installments over a period of not to exceed eight years, together with interest thereon not to exceed six per cent. per annum, payable annually, on the deferred payments.* Said assessments shall be certified and collected as other assessments for street improvements. The actual work of making such connections shall be done under such regulations as are provided for by ordinance.

Cost of connection; installments and interest.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall take effect and be in full force from and after its passage and approval.

Approved February 21, 1939.

CHAPTER 46

An Act to Amend Sections 4630.29 and 4630.30, Revised Codes of Montana, 1935, Relating to County Bonds, the Redemption Thereof Before Maturity, the Investment of County Bond Sinking and Interest Funds and the Purchase of Bonds With Such Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4630.29, R. C. 1935, amended.

Section 1. That Section 4630.29, Revised Codes of Montana, 1935, be, and the same is hereby amended so as to read as follows:

Redemption of bonds before maturity.

"Section 4630.29. **Redemption of Bonds Before Maturity.** Whenever there is available money in any sinking and interest fund, over and above the amount required for payment of principal and interest, becoming due on the next interest payment date, sufficient to pay and redeem one or more of the outstanding bonds, *or coupons in the case of amortization bonds,* of the issue or series to which such sinking and interest fund belongs, and such

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bonds are held by the State of Montana, the county treasurer must apply such available money in payment of as many of such bonds, *or coupons in the case of amortization bonds,* as the same will pay. Not less than fifteen (15) days before the next interest payment date, the county treasurer must give notice to the state board of land commissioners that on such interest payment date such bond or bonds, *or coupon or coupons,* will be paid, and the county treasurer, before such interest payment date, must remit to the state treasurer the amount required to pay such bond or bonds, with the interest thereon, *or amortization bond coupon or coupons.* Upon receipt of such amount the state treasurer must cancel such bond or bonds and all unpaid interest coupons attached thereto, *and the coupons paid in the case of amortization bonds,* and return the same, with his receipt, to the county treasurer.

Available money in excess of amount needed at next interest date, how applied.

Whenever there is available money in any sinking and interest fund, over and above the amount required for payment of principal and interest becoming due on the next interest payment date, sufficient to pay and redeem one or more outstanding optional bonds *or coupons in the case of amortization bonds of* the issue or series to which such sinking and interest fund belongs, and which bonds *or coupons* are not yet due but are then redeemable or will become redeemable on the next interest payment date, and such bonds *or coupons* are not held by the State of Montana, the county treasurer must apply such available money in payment and redemption of as many of such bonds *or coupons in the case of amortization bonds* as the same will pay and redeem. The county treasurer must give notice to the holder of such bond, bonds, *or coupons,* if known to him, or to any bank or financial institution at which such bonds *or coupons* are payable, at least fifteen (15) days before the next interest payment date, that such bonds *and coupons* will be paid and redeemed on such date. The county treasurer must also publish in the official newspaper of the county, once a week for two (2) consecutive weeks immediately preceding such interest payment date, a notice that such bond, bonds, *or coupons* have been called in for redemption and will be paid in full on such interest payment date. If such bonds *or coupons* are payable at some bank or financial institution the county treasurer must remit to such bank or financial institution, before such interest payment date, an amount sufficient to pay

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and redeem such bonds *or coupons*. If such bonds are not presented for payment and redemption on such interest payment date interest thereon shall cease on such date.

Bonds to be paid in numerical order.

All bonds *or amortization bond coupons* paid and redeemed under the provisions of this section must be paid and redeemed in the numerical order in which the same were issued or become due."

Sec. 4630.30, R. C. 1935, amended.

Section 2. That Section 4630.30, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Investment of sinking and interest fund.

"Section 4630.30. **Investment of Sinking and Interest Fund.** Whenever there is available money in any sinking and interest fund, over and above the amount required for payment of principal and interest becoming due on the next interest payment date, sufficient to pay and redeem one or more outstanding bonds of the issue or series to which such sinking and interest fund belongs, and such bonds are not held by the State of Montana and are not yet redeemable or due, the county treasurer, at the direction of the board of county commissioners, shall purchase such bond or bonds of such issue or series, if this can be done at not more than par and accrued interest, or at such reasonable premium as the board may feel justified in paying, not in any case exceeding five per centum (5%).

County treasurer shall stamp bonds paid and cancel coupons.

When any bonds have been heretofore or are hereafter purchased with any sinking and interest fund moneys under the provisions of this section such bonds, with attached interest coupons, if not then in the possession of the county treasurer, shall be immediately delivered to him, and such county treasurer shall at once endorse across the face of each such bond the word "PAID" and the date thereof and shall sign such endorsement, and such treasurer shall, without detaching the same, cancel each interest coupon attached to such bonds by endorsing across the face thereof the word "CANCELLED" and the date thereof and shall sign such endorsement. After making such endorsements on such bonds and coupons the county treasurer shall enter on the record of registration thereof the date such bonds and coupons were so endorsed by him as being paid and cancelled, with the numbers and amounts thereof and the dates when the same would have become due and payable if they had not been so purchased. The

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county treasurer shall then deliver such bonds, with the cancelled coupons attached, to the county clerk with a report showing the numbers thereof and the amount paid on the purchase thereof, and the county clerk shall exhibit such bonds, with attached coupons and report, to the board of county commissioners at their next regular session.

When bonds cannot be purchased, how money to be invested.

If the board cannot purchase any of the outstanding bonds at such reasonable price then such available money in such sinking and interest fund shall be invested by the county treasurer, under the direction of the board of county commissioners, in other bonds of the county, in warrants of the county or any other county of the state, in bonds or warrants of the state, or in bonds or treasury certificates of the United States; provided, however, that such sinking and interest funds shall only be invested in such securities as will become due and payable at least sixty (60) days before the date when the bonds of the county of such series or issue will become redeemable."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 21, 1939.

CHAPTER 47

An Act to Amend Section 3298.19, Revised Codes of Montana, 1935, Relating to the Inspection of Hides of Cattle Before Selling, Destroying or Otherwise Disposing of the Same; and Production of Evidence of the Inspection Thereof; Declaring It to Be Unlawful to Sell or Otherwise Dispose of Hides Which Have Not Been Inspected; and Providing That Any Person Slaughtering Cattle Shall Exhibit the Hide or Hides to Any Inspecting Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3298.19, R. C. 1935, amended.

Section 1. That Section 3298.19 of the Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows:

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Inspection of hides before disposal.

Section 3298.19. **Inspection of Hides Before Disposal.** *Person Slaughtering Cattle Must Exhibit Hides.* "Every person or persons, firm, corporation or association, slaughtering cattle for their own use, must before *selling, destroying or otherwise disposing* of the hide or hides from such cattle, have the same inspected by an officer authorized to make such inspection and secure a certificate of inspection as hereinbefore provided for. It shall be unlawful for any person or persons, firm, corporation, or association to *sell, offer for sale, destroy or otherwise dispose of* any hide or hides from *slaughtered* cattle which have not been inspected and identified by an authorized inspector. *And it shall be the duty of any person or persons, firm, corporation, or association slaughtering cattle, for his own use or otherwise, upon demand of an authorized inspector, to exhibit the hide or hides of such animal or animals for inspection or duplicate bill of sale issued by a hide buyer, or some evidence of inspection by an authorized inspector.*"

Person slaughtering cattle must exhibit hides.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after date of its passage and approval.

Approved February 21, 1939.

CHAPTER 48

An Act Providing for and Creating the Montana State Park Commission, and Defining the Qualifications and Duties of the Commission and Its Members, and Providing for the Acquisition and the Care of Areas, Sites and Objects of Scenic, Historic, Archaeologic, Scientific and Recreational Interest and Value to the State, and for Other Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose and creation of Montana state park commission.

Section 1. **Purpose; Creation of Commission.** That for the purpose of conserving the scenic, historic, archaeologic, scientific and recreational resources of the State, and of providing for their use and enjoyment, thereby contributing to the cultural, recreational and economic life of

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the people and their health, the Montana state park commission (hereinafter referred to as the commission) is hereby created.

Section 2. **Members; Appointment; Terms; Qualifications.** The commission shall be composed of three (3) members to be appointed by the governor within thirty (30) days after the effective date of this act, for terms as follows: One (1) for a term of two (2) years, one (1) for a term of four (4) years, and one (1) for a term of six (6) years. Thereafter succeeding members shall be appointed for a term of six (6) years, except that vacancies occuring otherwise than by expiration of term shall be filled by appointment for the unexpired term. The commissioners shall be qualified electors of the State of Montana and shall be persons who have displayed an active interest in and knowledge of the powers and duties conferred by this act. The commissioners shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the performance of their official duties.

Members; appointment.

Terms of office.

Qualifications.

Serve without compensation.

Section 3. **Organization; Officers; Employees.** Within thirty (30) days after their appointment and qualification, the commissioners shall meet and select one (1) of their number as chairman, who shall serve for one (1) year and until his or her successor is selected. The state forester shall serve as the secretary of the commission and shall also be known as the director of state parks. The secretary shall keep an accurate record of the transactions of the commission, and shall be responsible to the commission for the execution of its policies. The headquarters of the commission shall be at Missoula, but meetings may be held at any point within the State. The chairman shall convene regular meetings in January and July of each year. Special meetings may be held on the call of the chairman or on request of a majority of the members, as the emergency may require. Any two (2) members of the commission shall constitute a quorum for the transaction of any and all business at any regular or special meeting. In the absence of the chairman, the remaining members may appoint a temporary chairman who shall have all of the powers of the chairman in the absence of the chairman. The chairman shall preside at all meetings, and sign all documents with the secretary which require the signature of the commission. The

Organization of commission.

Secretary, and his duties.

Duties of chairman.

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director, with the consent and approval of the commission, shall appoint, prescribe the duties, and fix the compensation of such assistants and employees as may be necessary for the carrying out of the provisions of this act.

Powers and duties of.

Section 4. **Powers and Duties.** The commission is hereby authorized and directed to make a study to determine the scenic, historic, archaeologic, scientific and recreational resources of the State, and shall have power by purchase, lease, agreement, or by acceptance of donations, or condemnation, to acquire for and in the name of the State, any such areas, sites or objects which in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state historical sites. The commission shall also have power in its discretion to receive and accept in the name of the State, in fee or otherwise, any such areas, sites, or objects conveyed, entrusted, donated, or devised to the State, and with like discretion to accept gifts, bequests, or contributions of money or other property to be expended or used for any of the purposes of this act; provided, that no contract shall be entered into or other obligation incurred under the provisions of this act until moneys have been appropriated therefor by the legislature or are otherwise made available as herein provided. The commission shall also have jurisdiction, custody and control of all state parks, recreational areas, public camping grounds, historical sites, and monuments which are now under the control and management of the State, except way-side camps and other public conveniences acquired, improved and maintained by the state highway commission and contiguous to the state highway system.

Fees and charges for privileges; concessions.

Section 5. **Fees and Charges; State Park Fund.** The commission shall have power to levy and collect reasonable fees or other charges for the use of such privileges and conveniences as may be provided, and to grant such concessions as it may deem advisable. All moneys derived from the activities of the commission, and from unconditional gifts, donations, bequests and endowments, shall be deposited in the state treasury to the credit of the

State park fund.

state park fund, which fund is hereby created, and shall constitute a continuing fund to be used and expended by the commission for any of the purposes of this act.

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Section 6. **Rules and Regulations; Penalties.** The commission shall have power to make rules and regulations governing the use, occupancy and protection of the lands and property under its control. Any person who violates any such rule or regulation shall be deemed guilty of a misdemeanor and punished by a fine of not more than one hundred dollars ($100.00) or by imprisonment for not more than six (6) months, or both, and be adjudged to pay all costs of the proceedings. Rules and regulations. Penalties.

Section 7. **Connecting Roads.** The state highway department is hereby authorized, upon agreement with the commission, to construct, improve and maintain with state highway funds connecting roads between existing state highways and lands and properties under the jurisdiction of the commission; provided, that each such road shall not exceed a total length of ten (10) miles. Connecting roads.

Section 8. **Cooperation.** In carrying out the provisions of this act the commission may seek and accept the cooperation of other state and local agencies, and the agencies of the Federal Government, and may assist and cooperate with other state agencies, political subdivisions of the State, with neighboring states, and with the Federal Government in matters relating to acquiring, planning, establishing, developing, improving, or maintaining any park, parkway, recreational area, monument, historic site or archaeological site. Cooperation.

Section 9. **Reports.** The commission shall on or before the first day of December immediately prior to each regular session of the legislature submit to the governor for transmission to the legislature, a report covering its operations for the preceding biennium, and may include such recommendations relating to the purpose and provisions of this act as may be deemed advisable. Reports.

Section 10. **Repeal.** All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 11. **Effective Date.** This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 23, 1939.

CHAPTER 49

An Act Providing for the Regulation of the Sale of Food and Foodstuffs, Providing for a State Board of Food

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Distributors and Defining Its Powers and Duties, Setting Forth the Requirements for Licensing of Food Stores, Restaurants, and Other Places, Definitions and Penalties and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

TERMS DEFINED:

Section 1. As used in this act—

Terms defined.

"Food store."

(a) The term "food store" shall mean a grocery store, restaurant, pool hall, hotel, or other established place regularly licensed by the state board of food distributors, in which food or drinks are compounded, dispensed, vended, or sold at retail.

"Food."

(b) The term "food" shall mean all substances, drinks, and preparations other than drugs, offered for sale and intended for human consumption.

"Board."

(c) The term "board" or "state board of food distributors" shall mean the Montana state board of food distributors.

"Secretary."

(d) The term "secretary" shall mean the secretary of the Montana state board of food distributors.

"Person."

(e) The word "person" shall be construed to include every individual, co-partnership, corporation or association, unless the context otherwise requires.

Gender and number.

(f) Masculine words shall include the feminine and neuter and the singular includes the plural.

Board of food distributors.

Section 2. **Board of Food Distributors.** The Montana state board of food distributors shall consist of three (3) food distributors, each of whom shall have had at least five (5) consecutive years of practical experience in Montana as a food distributor immediately preceding his appointment, and shall be actively engaged in the distribution of food.

Appointment and terms of members.

Section 3. The members of the board shall be appointed by the governor, one in each year, each to serve for a term of three (3) years and until his successor shall have been appointed and qualified. Vacancies shall be filled by appointment for the unexpired term. Any mem-

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ber of the board who, during his incumbency, ceases to be actively engaged in the distribution of food in this State, shall be automatically disqualified from membership. Any member may be removed from office by the governor upon proof of malfeasance or misfeasance in office. The members of the Montana state board of food distributors heretofore appointed and now holding office shall continue until their respective terms expire.

Recommendation for appointment.

Section 4. The Montana state food distributors association shall recommend five (5) names for each appointment to be made, from which list the governor shall elect.

Election of officers.

Section 5. The board shall annually elect from its members a president, a vice-president, a treasurer, and a secretary, who may or may not be a member.

Powers and duties.

Section 6. **Powers and Duties of the State Board of Food Distributors.**

Regulate quality of food.

(a) To regulate the quality of all food sold at retail in this State, using the State and Federal Pure Food and Drug Acts as the standard.

Inspection of places of sale.

(b) It may, by its duly authorized representative, enter and inspect any and all places where food is sold, vended, given away, or manufactured. It shall be unlawful for any person to refuse to permit or otherwise prevent such representative from entering such places and making such inspection.

Annual report.

(c) To report its proceedings annually to the governor with such information and recommendations as it deem proper, giving the names of all food stores licensed during the year and the items of the receipts and disbursements.

Assistants.

(d) To employ necessary assistants, and make rules for the conduct of its business.

Other duties.

(e) To perform such other duties and exercise such other powers as the provisions of the act may require.

Publish rules and regulations.

(f) For the purposes aforesaid, it shall also be the duty of the board to make and publish uniform rules and regulations not inconsistent herewith, for carrying out and enforcing the provisions of the act.

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Meetings of board.

Section 7. **Meetings of the Board of Food Distributors.** The board shall meet at least once every six months for the purpose of transacting its business.

Per diem of members.

Section 8. **Per Diem of Members of the Board.** Each member of the board shall receive ten dollars per day for his actual services as such, and his necessary expenses in attending meetings.

Secretary, salary and expenses.

Bond.

Section 9. **Secretary, Bond.** The secretary shall receive a salary to be fixed by the board and all expenses necessarily incurred by him in the performance of his duties. He shall give such a bond as the board may from time to time require, which bond shall be approved by the board.

Registration and licensing of food stores.

Section 10. **Food Stores—Permits, Offenses for Failure to Obtain.** The state board of food distributors shall require and provide for the annual registration and licensing of every food store now or hereafter doing business within this State. Upon the payment of a fee of two dollars, the board shall issue a license and provide the insignia designating such store a "certified food store" by the state board of food distributors, to such persons as may be qualified by law to conduct a food store provided such license shall be exposed in a conspicuous place in the food store for which it is issued, and shall expire on the thirtieth day of June following the date of issue. It shall be unlawful for any person to conduct a food store unless such license has been issued to him by the board.

Suspension or revocation of registration.

Hearing.

Appeal.

Section 11. **Registration—May Suspend, Revoke, or Refuse to Renew—Entitled to Hearing.** The board may suspend, revoke or refuse to renew any registration or license obtained by false representation or fraud, or when the person to whom license or registration shall have been granted has been convicted for violation of any of the provisions of this act, or for a felony. Before any license can be revoked, the holder thereof shall be entitled to a hearing by the board, upon due notice of the time and place where such hearing shall be held. The accused may be represented by legal counsel, shall be entitled to compulsory attendance of witnesses and shall have the right of appeal to the district court of the proper county on the question of law and fact.

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Section 12. **Quality of Food Sold — Adulteration — Who Is Responsible.**

Responsibility for quality of food.

(a) Every proprietor or manager of a food store shall be responsible for the quality of all food sold therein, except for articles sold in the original package of the manufacturer.

Adulteration unlawful.

(b) It shall be unlawful for any person or his agent to adulterate any food, or mix any foreign or inert substance with food, for the purpose of adulteration or cheapening same.

Pure food and drug act not changed hereby.

(c) Nothing in this act shall be construed to change any of the provisions of the Pure Food and Drug Act of Montana, being Chapter 237 of the Revised Codes of Montana of 1935.

Section 13. **Fees to Be Deposited With Treasurer— Payments to Be Made.** All fees received by the state board of food distributors under this act shall be deposited with treasurer of the board. In enforcing any and all laws affecting or pertaining to food stores licensed herein, all fines paid under the provisions of this act or in connection with the enforcement of this act or any other act concerning food stores or in connection with the enforcement thereof, shall be paid to the credit of the common school fund of the State of Montana, provided that no salary or expenses of the board of food distributors shall be paid out of the state treasury. No expenses shall be incurred by said board in excess of the revenue derived from such fees. All expenditures of said board and all expenses necessarily incurred thereby in exercise of its powers or the performance of its duties under this act, shall be paid out of said fund in hands of treasurer of the board. Payments out of said fund shall be made only by warrant or order on said funds drawn by the secretary and countersigned by the president of the state board of food distributors. The treasurer shall give such bond as the board may from time to time require.

Fees to be deposited with treasurer of the board.

No salary or expenses to be paid out of state treasury.

Payment by warrant.

Section 14. **Board to Turn Over Certain Moneys.** The board shall, in each year, turn over to the Montana state food distributors association for the advancement of the science, sanitation and public health in food distribution, and for the enforcement of this or any other law relating

Board to turn certain moneys over to Montana State Food Distributors Association.

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to food stores, out of the annual fees collected by it, such sum as it may deem advisable, but not less than one dollar for each store which shall have paid its renewal fee during such year.

Attorney general shall be attorney for the board.

Section 15. **Attorney General to Be Attorney for State Board of Food Distributors—Prosecutions—Secretary to Assist in Enforcement—Duties of County Attorneys.** The attorney general of the State of Montana shall be the attorney for the Montana state board of food distributors but said board may employ other counsel. The secretary of the Montana state board of food distributors shall, under such rules and regulations as the board may prescribe, assist the board and the attorney general in the administration and enforcement of this act. It shall be the duty of the county attorney of the county wherein any offense hereunder is committed to prosecute the offender. Such prosecutor is authorized to examine the books of any manufacturer, druggist, store-keeper, or wholesale dealer within the state for the purpose of acquiring information to aid in the prosecution.

Duties and powers of county attorney.

License to be posted.

Section 16. Any person, persons, firm or corporation, which, under this act, are required to have a license, shall at all times have such license posted in a conspicuous place in their place of business and shall have the same at all times available for inspection and examination by any person or citizen of the State of Montana.

Penalties.

Section 17. **Penalties.** Any person violating any of the provisions of this act or rules and regulations hereunder, shall be guilty of a misdemeanor, unless otherwise provided.

Constitutionality.

Section 18. **Constitutionality.** If any section, subsection, clause or phrase of this act shall be held invalid, such decision shall not affect the validity of the remaining portions of this act. It is hereby declared that this act would have been passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases are declared unconstitutional or invalid.

Title of act.

Section 19. **Title of Act.** The title of this act shall be The Food Distributors Law of 1939.

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Section 20. **Date Effective.** This act shall be in full force and effect from and after the date of its passage and approval. Effective date.

Approved February 22, 1939.

CHAPTER 50

An Act to Amend Section 12 of Chapter 80 of the Session Laws of Montana of 1937, so as to Authorize the Montana Trade Commission to Enforce the Provisions of Said Act and to Provide Procedure Therefor; and Also to Amend Said Chapter 80, by Incorporating Therein in the Proper Order, Three New Sections to Be Known as Section 12a, 12b and 12c, Providing for the Procedure for the Establishment of Cost Surveys, Conferring Power Upon the Montana Trade Commission to Conduct Hearings and Investigations and Providing the Method of Procedure Therefor, Making Unlawful the Changing, Altering, Substituting or Falsifying of Invoices and Providing Penalties Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 12 of Chapter 80 of the Session Laws of Montana of 1937, be, and the same is hereby amended to read as follows: Sec. 12, Chap. 80, laws of 1937, amended.

"Section 12. The Montana trade commission shall have the administration of this act; and the members thereof shall not receive any additional compensation for their services other than their salaries prescribed by law. Montana Trade Commission to administer act.

"Said commission is empowered and directed to prevent any person, firm or corporation from violating any of the provisions of this Chapter.

"Whenever the commission shall have reason to believe that any such person, firm or corporation has been or is engaging in any course of conduct or doing any act or acts in violation of the provisions of this Chapter and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, firm or corpora-

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Complaint and notice of hearing by the commission.

tion a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed not less than five days after the service of said complaint. Any such complaint may be amended by the commission in its discretion at any time five days prior to the issuance of an order based thereon. The person, firm or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, firm or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, firm or corporation may make application, and upon good cause shown may be

Intervention.

allowed by the commission, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission. If upon such hearing the commission shall be of the opinion that the act or conduct in question is prohibited by this Chapter, it shall

Findings and order to desist.

make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, firm or corporation an order requiring such person, firm or corporation to cease and desist from such acts or conduct. Until a transcript of the record in such hearing shall have been filed in a district court, as hereinafter provided, the commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this Section.

Review in district court.

"Any person, firm or corporation required by an order of the commission to cease and desist from any such act or conduct may obtain a review of such order in any district court of the State of Montana within any district where the act or conduct in question was done or carried on, or where such person, firm or corporation resides or carries on business, by filing in the court, within sixty days from the date of the service of such order, a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission, and thereupon the commission forthwith shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the commission. Upon such filing of the petition and transcript the court shall

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have jurisdiction of the proceeding and of the question determined therein and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the commission as to the facts, if supported by sufficient evidence, shall be conclusive. To the extent that the order of the commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceedings before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by sufficient evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the supreme court upon appeal as in other cases of judgments of such courts; provided, however, that said appeal shall be taken within thirty days from the date of the entry of such judgment or decree.

Additional evidence.

Appeal to supreme court.

"Such proceedings in the district court shall be given precedence over other civil cases pending therein, and shall be in every way expedited. Complaints, orders, and other processes of the commission under this Section may be served by anyone duly authorized by the commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the residence or the principal office or place of

Service of processes of the commission.

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business of such person, partnership or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership or corporation at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

Finality of an order of the commission.

"An order of the commission to cease and desist shall become final (1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; (2) upon the expiration of the time allowed for filing a notice of appeal to the supreme court, if the order of the commission has been affirmed, or the petition for review dismissed by the district court and no notice of appeal to the supreme court has been duly filed, or (3) upon the expiration of thirty days from the date of issuance of the remittitur of the supreme court, if such court directs that the order of the commission be affirmed or the petition for review dismissed.

"If the supreme court directs that the order of the commission be modified or set aside, the order of the commission rendered in accordance with the mandate of the supreme court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the commission shall become final when so corrected.

"If the order of the commission is modified or set aside by the district court and if (1) the time allowed for filing a notice of appeal to the supreme court has expired and no such notice of appeal has been duly filed or (2) the decision of the district court has been affirmed by the supreme court, then the order of the commission rendered in accordance with the mandate of the district court shall become final on the expiration of thirty days from the time such order of the commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the

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mandate, in which event the order of the commission shall become final when so corrected.

"If the supreme court orders a rehearing; or if the case is remanded by the district court to the commission for a rehearing, and if (1) the time for filing a notice of appeal to the supreme court has expired and no such notice of appeal has been duly filed, or (2) the decision of the court has been affirmed by the supreme court, then the order of the commission rendered upon such rehearing shall become final in the same manner as though no prior order of the commission had been rendered.

"Any person, firm or corporation who violates an order of the commission to cease and desist after it has become final, and while such order is in effect shall forfeit and pay to the State of Montana a penalty of not more than one thousand dollars ($1,000.00) for each violation, which shall accrue to the State of Montana and may be recovered in a civil action brought by the State of Montana. Penalty.

"The remedies and method of enforcement of this Chapter provided for in this Section shall be deemed concurrent and in addition to the other remedies provided in this Chapter." Remedies are concurrent and cumulative.

Section 2. That Chapter 80 of the Session Laws of Montana of 1937, be, and the same is hereby amended by incorporating therein following Section 12 of said Chapter a new Section to be known as Section 12A, to read as follows: Chap. 80, laws of 1937, amended by adding Sec. 12A.

"Section 12A. The Montana trade commission is hereby empowered and directed whenever application therefor shall have been made by ten or more persons, firms or corporations within any particular retail trade or business to establish the cost survey provided for in Section 5 of this Chapter. When petition for such cost survey has been so presented to the commission, the commission shall, as soon as possible, fix a time for a public hearing upon the question of whether such cost survey should be established. Such hearing shall be held at the office of said commission and upon such notice as the commission may by rule require; provided, however, that notice of such hearing shall be published for at least two successive weeks in such daily newspaper or newspapers as the commission may designate as most commonly circulated in the counties Procedure for establishing the cost survey provided in section 5 of this chapter.

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to be affected by such cost survey. Said notice shall further state the locality or area in respect to which said cost survey is proposed to be established and the particular retail trade or business to be affected thereby.

Facts to be determined by the commission.

"At the time fixed in said notice any person, firm or corporation shall be entitled to appear and be heard by the commission upon all questions to be determined by it as provided in this Section. If the commission shall determine that a cost survey shall be established, it shall at the same hearing proceed to classify and define the particular retail trade or business, or parts thereof, to be affected thereby, determine and delimit the particular area within which such retail trade or business shall be so affected, and find and determine the probable 'cost of doing business' or 'overhead expense', stated in percentage or percentages of invoice or replacement cost which would probably be incurred by the most efficient person, firm or corporation within such retail trade or business within such area.

Presumption respecting findings.

"The percentage or percentages so fixed and determined shall be presumed to be the actual 'cost of doing business' and 'overhead expense' of any person, firm or corporation in such retail trade or business and within the area, affected by such cost survey."

Sec. 12B added to Chap. 80, laws of 1937.

Section 3. That Chapter 80 of the Session Laws of Montana of 1937, be, and the same is hereby amended by incorporating therein following said new Section 12A of said Chapter a new Section to be known as 12B, to read as follows:

"Section 12B. The Montana trade commission for the purpose of conducting hearings and investigations which, in the opinion of the commission, are necessary and proper for the exercise of the powers vested in it by this Chapter shall have the following powers:

Powers of commission respecting hearings and investigations.

"The commission, or its duly authorized agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. Any member of the commission shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any

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matter under investigation or in question, before the commission, or before its duly authorized agent conducting the investigation. Any member of the commission or any agent, duly authorized by the commission for such purposes, may administer oaths and affirmations, examine witnesses and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place within the State of Montana at any designated place of hearing.

District court may order attendance of witness before the commission.

"In any case of contumacy or refusal to obey a subpoena issued to any person, any district court of the State of Montana, within any district where the inquiry is carried on or where a person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commission shall have jurisdiction to issue to such person, an order requiring such person to appear before the commission, or its duly authorized agent, and there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

Possible incrimination not excuse for disobedience to subpoena of the commission.

"No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying."

Sec. 12C added to Chap. 80, laws of 1937.

Section 4. That Chapter 80 of the Session Laws of Montana of 1937, be, and the same is hereby amended by incorporating therein following said new Section 12B of said Chapter a new Section to be known as 12C, to read as follows:

Alteration of invoices declared unlawful.

"Section 12C. It shall be unlawful for any person, partnership, firm, corporation, joint stock company or other association, as defined in Section 3, to change, alter, substitute or falsify any invoice where such practice tends

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to injure a competitor or to destroy competition or to mislead any court or commission. Said practice is unfair trade practice and any person, firm, partnership, corporation or association resorting to such trade practice shall be guilty of a misdemeanor and, on conviction, shall be subject to the penalties provided in Section 11 of this act."

Approved February 22, 1939.

CHAPTER 51

An Act to Amend Section 287 of the Revised Codes of Montana, 1935, Relating to the Authority of the State Purchasing Agent With Respect to Requisitions for Purchase by the Various Departments, Commissions, Boards and Officials of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 287, R. C. 1935, amended.

Section 1. That Section 287 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Authority to purchase.

"Section 287. **Authority to Purchase.** An estimate or requisition *presented* by the department, commission, board or state official in control of the appropriation or fund against which such contract or purchase is to be charged, *must be approved by the state purchasing agent, and this* shall be full authority for any contract and any purchase made by the state purchasing department; provided, however, that no purchase shall be made by the state purchasing department of any furniture, fixtures, apparatus or equipment for any department, board, commission or office until the estimate or requisition for the purchase thereof has been submitted to the state board of examiners and an order made by such board authorizing the purchase thereof."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1939.

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CHAPTER 52

An Act to Amend Section 4536, Revised Codes of Montana, 1935, as Amended by Chapter 163 Laws of 1937 Relating to Burial of Deceased Soldiers, Sailors, Marines, and Army Nurses, and Providing When and in What Cases the Provisions Thereof May Be Effective.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4536, Revised Codes of Montana, 1935, as amended by Chapter 163, Laws of 1937, be and the same is hereby amended to read as follows:

Sec. 4536, R. C. 1935, amended.

"Section 4536. It shall be the duty of the board of commissioners of each county in this State to designate some proper person in the county, who shall be known as veterans' burial supervisor, preferably an honorably discharged soldier, sailor or marine, whose duty it shall be to cause to be decently interred the body of any honorably discharged soldier, sailor, marine or nurse who shall have served in the army, navy, marine corps or army nurse corps of the United States who may hereafter die. Such burial shall not be made in any burial grounds or cemetery, or in any portion of any burial grounds or cemetery, used exclusively for the burial of pauper dead; provided, (1) the expense of burial shall be the sum of one hundred fifty dollars ($150.00), to be paid by the county commissioners of the county in which the deceased was an actual bona fide resident at the time of death, and provided (2) that the benefits hereof shall not be available in the case of any decedent whose executor, administrator or heirs waive the benefits hereof.

Veterans' burial supervisor

Maximum of expense of burial.

"In the event any honorably discharged soldier, sailor, marine or nurse, who shall have served in the army or navy of the United States, and who is a resident of the State of Montana, shall die while temporarily absent from the state or county of his residence, then the provisions of this act shall apply, and the burial expenses not exceeding the amount herein specified shall be paid in the same manner as above provided, and the veterans' burial supervisor may take charge of said burial in the same manner as he would, had such deceased person died within the county of his residence.

Death of veteran while absent from state or county of residence.

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"Whenever any soldier, sailor, marine, nurse or inmate hereinbefore described shall die at any public institution of the State of Montana, other than the state soldiers' home, and burial for any cause shall not be made in the county of the former residence of the deceased, the officers of said state institution, as aforesaid, shall provide the proper burial herein prescribed except that the expense of each burial shall not exceed the sum herein allowed, which expense shall be paid by the county in which the decedent resided at the time of entry into such institution, but no such burial shall be covered by any special or standing contract whereby the cost of burial is reduced below the maximum hereinbefore fixed, to the disparagement of proper interment."

Burial by officers of a public institution.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force from and after its passage and approval.

Approved February 24, 1939.

CHAPTER 53

An Act to Amend Section 4584 of the Revised Codes of Montana of 1935, Relating to the Assessment and Apportionment of Costs of Rural Improvement Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4584, R. C. 1935, amended.

Section 1. That Section 4584 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 4584. **Assessment of Property — Apportionment of Costs—Railroads.** To defray the cost of making any of the improvements provided for in this act, the board of county commissioners shall adopt the following method of assessment: The board of county commissioners shall assess the entire cost of such improvements against the entire district and each lot or parcel of land assessed in such district to be assessed *with that part of the whole cost which its area bears to the area of the entire district,*

Assessment of property.

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exclusive of streets, avenues, alleys and public places; provided, however, that the board of county commissioners in its discretion shall have the power to pay the whole or any part of the cost of any street, avenue or alley intersection out of any funds in its hands available for that purpose, or to include the whole or any part of such costs within the amount of the assessment to be paid by the property in the district. In order to apportion the cost of any of the improvements herein provided for, between the corner lots and inside lots of any block, the board of county commissioners may, in the resolution creating any improvement district, provide that whenever any of the improvements herein provided for shall be along any side street or abutting upon the side of any corner lot or block, that the amount of the assessment against the property in said district to defray the cost of such improvements shall be so assessed that *each square foot of the land embraced within any such corner lot* shall bear double the amount *of the cost of such improvement that a square foot of any inside lot shall bear.* Whenever any portion of the surface of a street is kept or used by any person, firm or corporation for railroad or for street railway purposes, the cost and expense of making such improvements between the rails and for one foot on each side thereof shall be paid by the person, firm or corporation owning such railroad, and where double tracks of railroads are laid, such person, firm or corporation shall pay the costs of making such improvement or improvements between such tracks and between all switches and spurs."

Apportionment of costs.

Railroads.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 24, 1939.

CHAPTER 54

An Act to Amend Section 2815.154, of the Revised Codes of Montana of 1935, Being a Part of the "State Liquor Control Act of Montana."

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 2815.154, R. C. 1935, amended.

Section 1. That Section 2815.154 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 2815.154. All moneys received from the sale of liquor at the state liquor stores or from license fees or taxes or otherwise, arising in the administration of this act, shall be paid to the board, and the board is hereby authorized to make such expenditures as from time to time becomes necessary in the administration of this act, including in such expenditures all salaries, expenses of officers, agents and employees, and all proper expenditures incurred in acquiring property and merchandise in connection with the administration of this act, *and no obligation created or incurred by the board shall ever be, or become, a debt or claim against the State of Montana, but shall be payable by the board solely from funds derived from the operation of state liquor stores, and the board shall pay into the state treasury the receipts from all taxes and licenses by it collected, and also the net proceeds from the operation of state liquor stores.*"

Board shall receive and disburse moneys received from the sale of liquor.

Obligation of the board not a debt of the state.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1939.

CHAPTER 55

An Act Validating All Sales of Property Heretofore Made by the Board of County Commissioners of Any County, the Title to Which Was at the Time of Such Sale Held by the County for Use by Any High School or High Schools of the County Where the Provisions of Section 4465.9, Revised Codes of Montana, 1935, Have Been Complied With by Such County Commissioners.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of sales of property by board of county commissioners in certain cases.

Section 1. That all sales of property heretofore made by the board of county commissioners of any county, the title to which was at the time of such sale held by the county for use by any high school or high schools of the

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county, where the provisions of Section 4465.9, Revised Codes of Montana, 1935, have been complied with by such county commissioners, are hereby legalized and declared to be valid and binding sales, and all deeds, contracts, conveyances, bills of sale and other instruments of transfer, heretofore executed by any board of county commissioners, or by its chairman duly authorized by said board, for and on behalf of any county, transferring and conveying any such property so sold, are hereby legalized and declared to be valid and vesting the absolute title of the property so conveyed in the purchaser named in such conveyance or instrument of transfer.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1939.

CHAPTER 56

An Act to Authorize the Department of Agriculture, Labor and Industry, Through the Division of Labor and Publicity to Assist and Cooperate in the Enforcement of the Fair Labor Standards Act of 1938, and Providing for Reimbursement by Federal Agencies for the Cost of Such Assistance and Cooperation.

Be it enacted by the Legislative Assembly of the State of Montana:

Department of agriculture, labor and industry to cooperate with federal agency in enforcement of Fair Labor Standards Act.

Section 1. **Cooperative With Federal Agency.** The department of agriculture, labor and industry through the division of labor and publicity, may, and it is hereby authorized to assist and cooperate with the wage and hour division, and the children's bureau, U. S. department of labor, in the enforcement within this State of the Fair Labor Standards Act of 1938, approved June 25, 1938, and, subject to the regulations of the administrator of the wage and hour division or the chief of the children's bureau, as the case may be, and the laws of the State applicable to the receipt and expenditure of moneys, may be reimbursed by said wage and hour division, or said

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children's bureau, for the reasonable cost of such assistance and cooperation.

Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1939.

CHAPTER 57

An Act Authorizing Cities and Towns to Transfer Funds and Make Adjustments Between Funds to Remove Inactive Accounts From the City Records, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Municipalities may close inactive accounts and transfer funds therein to general fund.

Section 1. Whenever the council of any city or town having a corporate existence in this State, or hereafter organized under any of the laws thereof, shall deem it necessary to remove inactive accounts from its records where said accounts shall not have any further purpose, it shall be lawful for said council to direct the proper city or town officials to file claims against the respective inactive funds in favor of the general fund of said city or town, after which the council shall allow the same and cause the inactive funds to be closed and not continued in the record of active funds.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1939.

CHAPTER 58

An Act to Authorize the State Board of Equalization of the State of Montana to Make Request of the United States for the Payment of Sums in Lieu of Taxes: To Authorize the State Board of Equalization to Consummate Agreements With the United States for the

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Performance of Services by the State for the Benefit of Projects, as Defined Herein, and for the Payment by the United States of Sums in Lieu of Taxes: And to Provide for the Deposit of Payments of Sums in Lieu of Taxes.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions of terms.

Section 1. That the following definitions shall be applied to the terms used in this act:

(1) "Agreement" shall mean "contract", and shall include renewals and alterations of a contract.

"Board."

(2) "Board" shall mean the state board of equalization of the State of Montana.

(3) "State" shall mean the State of Montana.

"Services."

(4) "Services" shall mean such public and State functions as are performed for property in and persons residing within this State.

(5) "United States" shall mean the United States of America.

"Project."

(6) "Project" shall mean any resettlement project or rural rehabilitation project for resettlement purposes of the United States, located within this State, and shall include persons inhabiting such project.

Power of board respecting services for the benefit of projects.

Section 2. The board is hereby authorized and empowered to make requests of the United States, for and on behalf of this State, for payment of such sums in lieu of taxes as the United States may agree to pay, and to consummate agreements with the United States, in the name of this State, for the performance of services by the State for the benefit of projects, and for the payment by the United States to the State, in one or more installments, of such sums in lieu of taxes.

Basis for amount of payment in lieu of taxes.

Section 3. The amount of any payment of sums in lieu of taxes may be based on the estimated cost to the State of performing services for the benefit of the projects during the period of agreement, after taking into consideration the benefits to be derived by the State from such projects, but shall not be in excess of the taxes which would result to the State for the said period if

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the real property of the projects within the State were taxable.

Duty of state treasurer.

Section 4. A duplicate copy of every agreement for payment of sums in lieu of taxes shall be filed in the office of the treasurer of this State. On or before the date on which any payment of sums in lieu of taxes is due, the state treasurer shall present a bill to the United States, in the name of the State, in the amount of such payment. The state treasurer shall give to the United States a receipt in the name of the State for all payments of sums in lieu of taxes.

Payments received to be deposited in general fund.

Section 5. All payments of sums in lieu of taxes received by this State shall be deposited in the general fund, and shall become subject to appropriation as a part thereof.

Effective date.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1939.

CHAPTER 59

An Act to Authorize the Board of County Commissioners of Any County in This State to Make Request of the United States for the Payment of Sums in Lieu of Taxes; to Authorize the Said Board to Consummate Agreements With the United States for the Performance of Services by the County and the Political Subdivisions of the State Therein for the Benefit of a Project, as Defined Herein, and for the Payment of Sums in Lieu of Taxes by the United States; to Provide for the Notification to Such Subdivisions of the Consummation of Such Agreements; to Provide for the Deposit and Distribution of Payments of Sums in Lieu of Taxes; To Authorize Certain Political Subdivisions to Make Request of the United States for the Payment of Sums in Lieu of Taxes and to Enter Into Agreements With the United States, in Their Own Names, for the Performance of Services for the Benefit of a Project, as Defined Herein, and for the Payment of Sums in Lieu of Taxes by the United States; and to Provide for the Establishment of the "Government Project Fund".

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following definitions shall be applied to the terms used in this act: Definitions.

(1) "Agreement" shall mean "contract", and shall include renewals and alterations of a contract.

(2) "Board" shall mean the board of county commissioners of any county in this State. "Board."

(3) "Political subdivision" shall mean any agency or unit of this State which now is, or hereafter shall be, authorized to levy taxes or empowered to cause taxes to be levied. "Political subdivision."

(4) "Services" shall mean such public and municipal functions as are performed for property in and persons residing within a political subdivision. "Services."

(5) "United States" shall mean the United States of America.

(6) "Project" shall mean any resettlement project or rural rehabilitation project for resettlement purposes of the United States located within a political subdivision, and shall include the persons inhabiting such project. "Project."

(7) "Governing body" shall mean the commission, board, body, or persons in which the powers of a subdivision as a body corporate, or otherwise, are vested. "Governing body."

(8) "Fund" shall mean, unless otherwise expressed, the "government project fund" to be established pursuant to Section 6 of this act. "Fund."

Section 2. The board of county commissioners of any county in this State is hereby authorized and empowered to make requests of the United States, for and on behalf of the county and the political subdivisions whose jurisdictional limits are within or coextensive with the limits of the county, for payment of such sums in lieu of taxes as the United States may agree to pay, and to enter into agreements with the United States, in the name of the county, for the performance of services by the county and such political subdivisions for the benefit of the project, and for the payment by the United States to the county, in one or more installments, of such sums in lieu of taxes. The board authorized to agree with the United States re performance of services for benefit of projects.

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Basis for amount of payment.

Section 3. The amount of any payment of sums in lieu of taxes may be based on the estimated cost to each political subdivision, for and on whose behalf the agreement is entered into, of performing services for the benefit of a project during the period of the agreement, after taking into consideration the benefits to be derived by the subdivision from such project, but shall not be in excess of the taxes which would result to the subdivision for the said period if the real property of the project within the subdivision were taxable.

Agreement shall state share of payment to subdivisions.

Section 4. Each agreement entered into pursuant to Section 2 shall contain the names of the political subdivisions with respect to which it is consummated, and a statement of the proportionate share of the payment by the United States to which each such subdivision shall be entitled.

County clerk shall notify subdivision and state its share of payment due.

Section 5. The board shall file duplicate copies of every agreement for payment of sums in lieu of taxes with the county clerk and county treasurer. Upon receipt of the same, the county clerk shall notify each political subdivision for and on whose behalf the agreement is executed that the same has been consummated, and state the share of the payment due thereunder to which the subdivision is entitled. On or before the date on which any payment of sums in lieu of taxes is due, the county treasurer shall present a bill to the United States, in the name of the county, in the amount of such payment. The county treasurer shall give to the United States a receipt in the name of the county for all payments of sums in lieu of taxes.

Government project fund.

Section 6. The county treasurer shall establish a fund in the county treasury to be known as the "government project fund". The fund shall contain an account with each political subdivision which is entitled to a share of a payment of sums in lieu of taxes. Whenever such payment is received, the county treasurer shall apportion it to the several accounts in the fund pursuant to the agreement under which the payment is made.

Apportionment.

Section 7. After apportioning any payment to the several accounts as provided in Section 6, the county treasurer shall prepare in duplicate a complete itemized statement, one copy of which shall be filed with the board of county commissioners, and the other of which shall be

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filed with the county clerk. The board of county commissioners shall, by appropriate resolution, order warrants drawn on the county treasurer to the order of each political subdivision named in the itemized statement, in the amount of the political subdivision's share in the payment. The county clerk shall draw and sign said warrants, which shall also be signed by the chairman of the board of county commissioners. Whenever such warrant is presented to the county treasurer, he shall debit the proper account in the fund, and shall pay the amount of such warrant in full, without deduction, to the political subdivision presenting the same; provided, however, that the county treasurer shall not honor such warrant unless it is endorsed by the president, chairman, or other presiding officer of the governing body of such political subdivision. The endorsement of any warrant by said presiding officer of the governing body of a political subdivision as provided in this Section shall be construed as an approval of the agreement under which the payment was received. If any governing body of a political subdivision shall refuse to receive any warrant delivered pursuant to this Section, the amount of the warrant shall be refunded to the United States by the county.

Warrants for share payable to subdivision.

Endorsement of warrants.

Section 8. If the United States declines to deal with a board with respect to any political subdivision whose jurisdictional limits are within or coextensive with the limits of the county, or in the event the jurisdictional limits of a political subdivision lie in more than one county, that subdivision is hereby authorized to make request of the United States for payments of such sums in lieu of taxes as the United States may agree to pay, and is hereby empowered to enter into agreements with the United States for the performance by the subdivision of services for the benefit of a project, and for the payment by the United States to the subdivision, in one or more installments, of such sums in lieu of taxes. The amount of such payment may be based upon the cost of performing such services during the period of the agreement, after taking into consideration the benefits to be derived by the subdivision from the project, but shall not be in excess of the taxes which would result to the political subdivision for the period if the real property of the project within the political subdivision were taxable. Whenever any payment is received by a subdivision

When a subdivision may enter into agreement with the United States.

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under an agreement entered into pursuant to this Section, the governing body of such subdivision shall issue a receipt for such payment.

Fund or funds in which money shall be deposited.

Section 9. All money received by a political subdivision pursuant to Section 7 or under Section 8 shall be deposited in such fund or funds, or items of a fund or funds, as may be designated in the agreement; provided, however, that if the agreement does not make such designation, the money received shall be deposited in such fund or funds, or items of a fund or funds, as the governing body of such subdivision shall by appropriate resolution direct.

Duty of subdivision in absence of agreement.

Section 10. No provision of this act shall be construed to relieve any political subdivision of this State, in the absence of an agreement for payment of sums in lieu of taxes by the United States as provided in this act, of the duty of furnishing, for the benefit of a project, all services which the subdivision usually furnishes for property in and persons residing within the subdivision without a payment of sums in lieu of taxes.

Effective date.

Section 11. This act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1939.

CHAPTER 60

An Act Authorizing Directors of Corporations to Issue Bonds, Debentures or Other Obligations Convertible Into Stock and Defining Stockholders' Rights in Connection Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Corporations may issue bonds convertible into stock.

Section 1. The board of directors of any corporation hereafter organized or now existing under any of the laws of the State of Montana, whether formed and existing before or after the taking effect of the Codes on July 1, 1895, as such, has power to issue bonds, debentures or other obligations convertible into stock of any class, in amounts, upon the terms, in the manner and under the conditions provided by resolution of the board

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of directors of such corporation; provided that the authorized stock of such corporation shall not be increased without the consent of the persons holding a majority of the stock first obtained at a meeting held after at least thirty (30) days notice given in pursuance of law. Such resolution, except when the original or amended articles of incorporation provide otherwise, shall preserve to the stockholders pre-emptive or preferential rights to subscribe to such issue as provided by law.

Proviso, respecting increase of stock.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 25, 1939.

CHAPTER 61

An Act to Amend Section 9327 of the Revised Codes of Montana of 1935, Relating to Issues of Fact—How Tried—When Issues Both of Law and Fact, the Former to Be First Disposed of—*Pre-trial Procedure by the Court in Formulating Issues in Civil Actions,* and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 9327 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 9327, R. C. 1935, amended.

"Section 9327. **Issues of Fact—How Tried—When Issues Both of Law and Fact, the Former to Be First Disposed of**—*Pre-trial Procedure by the Court in Formulating Issues in Civil Actions.*

Cases in which issue of fact must be tried by jury.

In actions for the recovery of specific real or personal property, with or without damages, or for money claimed as due upon contract, or as damages for breach of contract, or for injuries, an issue of fact must be tried by a jury, unless a jury trial is waived, or a reference is ordered, as provided in this Code. Where in these cases there are issues both of law and fact, the issue of law must be first

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disposed of. In other cases, issues of fact must be tried by the court, subject to its power to order any such issue to be tried by a jury, or to be referred to a referee, as provided in this Code."

Court may direct appearance of attorneys for parties for a conference.

In any action, the court may in its discretion direct the attorneys for the parties to appear before it for a conference to consider:

(1) The simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(4) The limitation of the number of expert witnesses;

(5) The advisability of a preliminary reference of issues to a referee for findings to be used as evidence when the trial is to be by jury;

(6) Such other matters as may aid in the disposition of the action.

Court order reciting action taken at the conference.

The court may make an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for trial to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice. The court in its discretion may establish by rule a pre-trial calendar on which actions may be placed for consideration as above provided and may either confine the calendar to jury actions or to non-jury actions or extend it to all actions.

Pre-trial calendar.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1939.

CHAPTER 62

An Act Authorizing the Making of Leases of Safe Deposit Vaults and Boxes to Two or More Persons as Joint Tenants.

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Be it enacted by the Legislative Assembly of the State of Montana:

The estate of two or more persons renting a safe deposit vault or box defined.

Section 1. When so specified in the agreement granting for a term of time the right in two or more persons to use or occupy any safe or box, commonly referred to as a safe deposit vault or box for the safe keeping of valuables, such interest and estate created in the grantees shall be a joint tenancy in such vault or box and pass to the survivors and survivor upon the death of one or more of the joint tenants with right in such survivors and survivor to have access to and possession of such vault or box and the contents thereof under the terms of the agreement.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1939.

CHAPTER 63

An Act Providing for the Creation of Stock Lanes for the Driving of and Travel of Livestock Thereon; Defining the Same as Public Highways and Providing That the General Laws of This State With Respect to the Establishing, Altering and Vacating of Highways Shall Apply Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Title of act.

Section 1. This act shall be known as the "Stock Lane Law."

Stock lane defined.

Section 2. Within the meaning of this act a stock lane shall be deemed to be a public highway established and maintained for the driving of and travel of livestock thereon. The width of such highway shall be determined by the order or orders of the county commissioners creating the same and shall be not less than sixty (60) feet in width.

Width regulated.

Section 3. The provisions of Sections 1635 to 1651 inclusive of the Revised Codes of Montana, 1935, and the

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Law of eminent domain made applicable.

general laws of this State relating to the establishing, altering and vacating of public highways including the right of exercise of the power of eminent domain shall likewise apply to stock lanes except that such highways in all petitions, orders and proceedings shall be referred to as "stock lanes" to differentiate them from other highways.

Power of county commissioners exclusive.

Section 4. The power to establish, alter or vacate stock lanes shall belong exclusively to the county commissioners of the respective counties, to be exercised when they deem it expedient and necessary for the convenience of the public, and when they deem it to be for the convenience of the travel of the public on highways now established. Any such lane established may adjoin and parallel a public highway and shall be described in the petition for the creation of and the order of the county commissioners creating the same.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 6. This act shall be in full force and effect from and after date of its passage and approval.

Approved February 27, 1939.

CHAPTER 64

An Act Relating to Licensing and Bonding of Persons, Firms, Co-partnerships, Corporations and Associations Contracting for Purchase of Mustard Seed Prior to Harvesting Same, Defining the Powers and Duties of the Commissioner of Agriculture, Designating the Disposition of Fees, and Providing Penalties for Violations Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

License fee and bond required of persons engaged in business of contracting for purchase of mustard seed crops prior to harvest.

Section 1. All persons, firms, co-partnerships, corporations and associations engaging in the business of contracting in advance of harvesting for the purchase of mustard seed crops to be paid for on delivery of said crop or crops, shall, on or before the first day of March of each year, pay to the state treasurer of Montana a

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license fee in the sum of ten dollars ($10.00) for the privilege of carrying on such business, and shall on or before said first day of March of each year, give a bond with good and sufficient sureties approved by the commissioner of agriculture of the State of Montana, in such sum as the commissioner may require but not less than ten thousand dollars ($10,000.00) conditioned upon the payment for such contracted seed at the price or prices specified in such contract, and upon the payment of such license fee of ten dollars ($10.00) and upon the approval of such bond by the commissioner of agriculture, said commissioner shall issue to such person or persons, firm, co-partnership, corporation or association a license to engage in such business in the State of Montana for a period of one year.

Date of commencing business in any year controlling.

Any person who shall commence the business aforesaid after the first day of March of any year shall be required to pay said license fee and to furnish such bond before engaging in or carrying on such business.

Duty of commissioner of agriculture to enforce act.

Section 2. It is hereby made the duty of the commissioner of agriculture to administer and enforce this act, and for that purpose he shall make all necessary and proper rules and regulations.

Disposition of fees.

Section 3. All funds accruing from license fees shall be deposited by the commissioner of agriculture with the state treasurer and shall be credited to the revolving fund of the grain division of the department of agriculture, labor and industry.

Revocation of license.

Section 4. The commissioner of agriculture may revoke for cause any license issued hereunder, and any person, firm, co-partnership, corporation or association licensed under the provisions of this act shall make a report to the commissioner of agriculture whenever he may require the same showing the amount of seed contracted.

Reports by licensee.

Section 5. Any person, firm, co-partnership, corporation, or association who shall engage in or carry on the business of contracting in advance of harvesting for the purchase of mustard seed crops to be paid for on delivery of said crop or crops, without having license therefor shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars

Penalty.

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($100.00), and each and every day that such business is so carried on or engaged in shall constitute a separate offense.

Effective date.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 27, 1939.

CHAPTER 65

An Act to Amend Sections 1805.21, 1805.23 and 1805.24 of the Revised Codes of Montana of 1935, Relating to Leasing of State Lands, Renewal of Such Leases, Qualifications of Lessees, Amount of Land Which May Be Embraced in Leases, Period of Lease and Lease Expiration Dates.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1805.21, R. C. 1935, amended.

Section 1. That Section 1805.21 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Renewal of leases.

"Section 1805.21. **Renewal of Leases.** A lessee who has paid all rentals due from him to the State and not violated the terms of his lease *may* be entitled to have his lease renewed at any time within thirty (30) days prior to its expiration for an additional period of not exceeding *ten (10)* years."

Sec. 1805.23, R. C. 1935, amended.

Section 2. That Section 1805.23 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Who may lease.

"Section 1805.23. **Who May Lease—How Much—and for What Length of Time.** No persons shall be qualified to lease state lands except one who is the head of a family unless he or she has attained the age of twenty-one (21) years. Any such person and any association, company or corporation authorized to hold lands under lease may lease state lands, and there may be included

How much.

under one lease, tracts of lands embracing more than one

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(1) section, whether the lands have been received by the State through federal land grants or consist of so-called 'mortgage lands'; any such person, association, company or corporation may hold more than one (1) lease to such lands. No lease to agricultural or grazing lands, or town or city lots shall be for a longer period of time than *ten (10)* years. If the legislature raises the rentals for state grazing lands during the term of any leases of grazing land hereafter issued which are not issued as a result of competitive bidding the lessee shall, for the years after such increase becomes effective, pay such increased rental and the terms of grazing leases hereafter issued shall so provide."

Duration of lease.

Rentals subject to increase, when.

Section 3. That Section 1805.24 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 1805.24, R. C. 1935, amended.

"Section 1805.24. **Lease Expiration Dates.** All leases for agricultural lands, grazing lands and town and city lots hereafter issued no matter on what date issued, shall expire on February 28 within *ten (10)* years from the date on which the lease becomes effective."

Expiration date.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 27, 1939.

CHAPTER 66

An Act to Amend Section 466 of the Revised Codes of Montana, 1935, Relating to the Bonds of County Officers; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 466 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 466, R. C. 1935, amended.

"466. The following named county officers shall give official bonds conditioned as provided by law in the following amounts, to-wit:

Amounts of bonds of county officers.

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Sheriffs.

"Sheriffs in counties of the first and second class, fifteen thousand dollars ($15,000.00).

"Sheriffs in counties of the third class, ten thousand dollars ($10,000.00).

"Sheriffs in counties of the fourth class, eight thousand dollars ($8,000.00).

"Sheriffs in counties of the fifth and sixth class, seven thousand dollars ($7,000.00).

"Sheriffs in counties of the seventh class, six thousand dollars ($6,000.00).

County clerks.

"County Clerks in counties of the first and second class, ten thousand dollars ($10,000.00).

"County clerks in counties of the third and fourth class, eight thousand dollars ($8,000.00).

"County clerks in counties of the fifth class, seven thousand dollars ($7,000.00).

"County clerks in counties of the sixth and seventh class, five thousand dollars ($5,000.00).

County assessors.

"County assessors in counties of the first and second class, ten thousand dollars ($10,000.00).

"County assessors in counties of the third class, seven thousand dollars ($7,000.00).

"County assessors in counties of the fourth and fifth class, five thousand dollars ($5,000.00).

"County assessors in counties of the sixth class, four thousand dollars ($4,000.00).

"County assessors in counties of the seventh class, four thousand dollars ($4,000.00).

Clerks of district court.

"Clerks of the district court in counties of the first, second and third class, ten thousand dollars ($10,000.00).

"Clerks of the district court in counties of the fourth class, eight thousand dollars ($8,000.00).

"Clerks of the district court in counties of the fifth class, seven thousand dollars ($7,000.00).

"Clerks of the district court in counties of the sixth and seventh class, five thousand dollars ($5,000.00).

County auditors.

"County auditors in counties of the first and second class, ten thousand dollars ($10,000.00).

"County auditors in counties of the third and fourth class, eight thousand dollars ($8,000.00).

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"County treasurers in counties of the first, second and third class, one hundred thousand dollars ($100,000.00). County treasurers.

"County treasurers in counties of the fourth class, eighty thousand dollars ($80,000.00).

"County treasurers in counties of the fifth class, seventy-five thousand dollars ($75,000.00).

"County treasurers in counties of the sixth and seventh class, twenty-five thousand dollars ($25,000.00).

"County attorneys in counties of the first, second and third class, two thousand five hundred dollars ($2,500.00). County attorneys.

"County attorneys in counties of the fourth and fifth class, two thousand dollars ($2,000.00).

"County attorneys in counties of the sixth and seventh class, one thousand dollars ($1,000.00).

"County surveyors in counties of the first, second, third, fourth, fifth, sixth and seventh class, one thousand dollars ($1,000.00), *providing, however, in counties having a total registered vote of fifteen thousand (15,000) or over, the bond of the county surveyor shall be in the sum of ten thousand dollars ($10,000.00).* County surveyors.

"County superintendents of schools in counties of the first, second, third, fourth, fifth, sixth and seventh class, one thousand dollars ($1,000.00). Superintendent of schools.

"County coroners in counties of the first, second, third and fourth class, five thousand dollars ($5,000.00). Coroners.

"County coroners in counties of the fifth and sixth class, four thousand dollars ($4,000.00).

"County coroners in counties of the seventh class, two thousand dollars ($2,000.00).

"Public administrators in counties of the first, second and third class, ten thousand dollars ($10,000.00). Public administrators.

"Public administrators in counties of the fourth and fifth class, eight thousand dollars ($8,000.00).

"Public administrators in counties of the sixth and seventh class, one thousand dollars ($1,000.00), and provided that when real estate is ordered to be sold, or when the value of the personal property of the state in which letters of administration are issued to the public administrator exceeds the amount of his official bond, another bond equal to the probable amount to be realized on the sale of the real estate ordered to be sold, or equal to the probable

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value of said personal property, must be required by the court.

Commissioners.

"County commissioners in counties of the first, second, third and fourth class, five thousand dollars ($5,000.00).

"County commissioners in counties of the fifth and sixth class, three thousand dollars ($3,000.00).

"County commissioners in counties of the seventh class, two thousand dollars ($2,000.00).

Drain commissioners.

"Drain commissioners in counties of the first and second class, five thousand dollars ($5,000.00).

"Deputy drain commissioners in counties of the first and second class, one thousand dollars ($1,000.00.)

Special drain commissioners.

"Special drain commissioners in counties of the first and second class, one thousand dollars ($1,000.00).

Meat and milk inspectors.

"Meat and milk inspectors in counties of the first and second class, one thousand dollars ($1,000.00).

County librarians.

"County librarians in counties of the first and second class, one thousand dollars ($1,000.00)."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 27, 1939.

CHAPTER 67

An Act to Amend Section 2396.4 of the Revised Codes of Montana of 1935, as Amended by Chapter 96 of the Session Laws of the Twenty-fifth Legislative Assembly, Relating to Refunding Gasoline Taxes Paid and Prescribing Duties of the State Board of Equalization Relating Thereto, and Providing for the Issuance of Permits to Gasoline Tax Refund Claimants and the Fee Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2396.4, R. C. 1935, amended.

Section 1. That Section 2396.4 of the Revised Codes of Montana, 1935, as amended by Chapter 96, Session Laws of the Twenty-fifth Legislative Assembly, 1937, be, and the same is hereby amended to read as follows:

"Section 2396.4. That any person who shall purchase and use any gasoline, with reference to which there has

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been paid into the treasury of the State of Montana, under the laws of this State licensing dealers in gasoline, a tax at the rate of five cents (5c) per gallon, for the purpose of operating or propelling stationary gas engines, tractors used for purposes other than on the public highways or streets of this State, motor boats, aeroplanes or aircraft, or for cleaning or dyeing, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state, and who has paid said tax either directly to the State of Montana or indirectly as a part of the purchase price of said gasoline, shall be allowed and paid as a refund or drawback an amount of money equal to five cents (5c) multiplied by the number of gallons of gasoline so purchased and used, *provided that counties, incorporated cities, towns and school districts of this state shall be entitled to said refund or drawback of said tax by any such county, city, town or school districts upon gasoline used by it in the performance of any of its governmental and proprietary functions, or either, imposed or authorized by law, including construction, maintenance and repair of all roads, highways and public places within the county limits and all streets, avenues, alleys and other public places within the corporate limits of such city or town;* provided *further* that such refund or drawback shall *in no instance exceed the total amount of the tax paid, or to be paid, to the State of Montana,* upon presenting to the board of equalization of the State of Montana, within the time allowed by law, a sworn statement, accompanied by the invoice or invoices *issued to the claimant at the time of purchase of such gasoline* showing such purchase and use, which statement shall set forth *in words and figures, the total amount of the gasoline so purchased, and the purpose for which the same was actually used, the amount of the tax* and such additional information as may be required by said board on forms to be furnished by them. All such applications for refunds or drawbacks shall be filed with the board of equalization of the State of Montana within six (6) months after the date on which such gasoline was purchased as shown by such invoices. The said board shall have sixty (60) days thereafter within which to make such investigation as it may desire, to ascertain the truths of the statements made. If the statement is found to be correct *and is approved* by said board and the state board of examiners, *the state auditor shall draw his warrant upon the state treasurer for the amount of such*

Refund of gasoline tax.

Refund to counties, cities, towns and school districts.

Showing required of claimant.

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claim and same shall be paid out of the gasoline license tax drawback fund in the same manner as other claims against the state are paid. *Such refund or drawbacks shall be made only to, and on the application of, the actual purchaser and user of the gasoline upon which refund is claimed and the burden of establishing the validity of the claim rests upon the claimant.*

"Should the board of equalization, after investigation, find that the statement so made by said consumer *contains errors which, in the opinion of the board were not inserted for the purpose of fraud, it may* correct the statement *and approve the same as corrected whereupon warrant shall issue, after approval by the state board of examiners, as above provided, or the board may, in its discretion, require the claimant to file an amended statement before action is taken thereon. If upon investigation it* shall be determined by the state board of equalization that *any claim has been fraudulently presented or is supported, as to any item therein by invoice or invoices fraudulently made or altered in any manner, or that any statement in the claim contained or the affidavit thereto, is wilfully false in any particular and so made for the purpose of misleading said board, the board may reject such claim in toto.*

Approval or rejection by board of equalization.

"Any person desiring to claim refund on gasoline purchased shall obtain from the state board of equalization a permit by application therefor on such form as the said board shall prescribe, which application shall be made under oath and shall contain, among other things, the name, address and occupation of the applicant, the nature of the business, and a sufficient description for identification of the machines or equipment in which the taxable motor fuel is to be used for which refund may be claimed under such permit.

Permits for filing claims.

"Each permit issued shall bear a permit number and each claim filed shall bear the permit number of the claimant. It shall be the duty of the state board of equalization to keep a record of all permits issued and a cumulative record of refund claimed and paid thereunder.

Record required.

"Whenever a claim shall be rejected upon the ground of fraud, as above provided, the state board of equalization may suspend the claimant's permit, for a period not exceeding one year, and no claim shall thereafter be approved

Suspension of permit.

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or allowed for refund on any gasoline purchased by such claimant during such period of suspension.

"When gasoline is sold to a person who shall claim to be entitled to a refund of the tax imposed, the seller of such gasoline shall make and deliver at the time of such sale separate invoices for each purchase on invoice forms approved by the state board of equalization showing the name and address of the seller and the name and address of the purchaser, the number of gallons of gasoline so sold in words and figures and the date of such purchase, which invoice, attached to the claim presented shall be the only proof upon which a legal claim can be made for a refund based upon such purchase. The seller shall retain his duplicate original invoices for the period of one year from and after the date of issuance, during which period they shall be open to inspection by the state board of equalization and its agents. Such invoices shall be legibly written and shall be void if any corrections or erasures appear on the face thereof."

Separate invoices for each purchase.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 27, 1939.

CHAPTER 68

An Act to Amend Chapter 63 of the Code of Civil Procedure of the Revised Codes of Montana of 1935, Relating to Actions to Quiet Title to Real Estate, by Adding Thereto a Section to Be Numbered 9488.1, Providing for the Maintenance and Prosecution of Such Actions, as Against Unknown Claimants or Possible Claimants, Where There Are no Known Claimants or Possible Claimants to Any of the Property Involved in Such Action.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Chapter 63 of the Code of Civil Procedure of the Revised Codes of Montana of 1935, be, and the same is hereby amended, by adding thereto a Section to be numbered 9488.1, and to read as follows:

A section added to Chap. 63, Code of Civil Procedure.

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Provisions to apply if no known or possible claimants.

"Section 9488.1. **Provisions to Apply if No Known Claimants or Possible Claimants.** If, in any case, there are no known claimants, or possible claimants, to any of the property involved in any action contemplated by Sections 9479 to 9488, both inclusive, of this Code, the action may nevertheless be maintained against all persons, unknown, claiming or who might claim any right, title, estate, or interest in, or lien or encumbrance upon, the real property described in the complaint, or any part thereof, adverse to plaintiff's ownership, or any cloud upon plaintiff's title thereto, whether such claim or possible claim be present or contingent, including any claim or possible claim of dower, inchoate or accrued, and such action may be prosecuted to judgment in the same manner and with like effect as though there had been known claimants or possible claimants; and in any such case, the complaint, the affidavit for service by publication, the order for service by publication, and the decree shall state the facts and the summons shall be directed to such unknown persons."

Effective date.

Section 2. This act shall be in full force and effect from and after the date of its passage and approval.

Approved February 27, 1939.

CHAPTER 69

An Act to Amend Section 5022, Revised Codes of Montana, 1935, Fixing the Salary of City Treasurer and Providing That Additional Salary May Be Paid Where a City of the Third Class, or a Town Owns and Operates a Public Utility or Utilities and Receives Revenue Therefrom.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5022, R. C. 1935, amended.

Section 1. That Section 5022 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Salary of treasurer.

"5022. **Salary of Treasurer.** The annual salary and compensation of the treasurer must be fixed by ordinance, and must be for all services rendered by such treasurer in any capacity, *(except, however, in cases where a city of the third class or a town owns and operates a public utility or utilities and receives revenue therefrom as hereafter in*

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this section provided) and no treasurer must be allowed any percentages or fees in addition thereto. In cities of the first class, the annual salary of the treasurer must not exceed three thousand dollars, in cities of the second class must not exceed two thousand dollars, and in cities of the third class it must not exceed seven hundred dollars, and in towns it must not exceed five hundred dollars; *provided, however, that where a city of the third class, or a town, shall own and operate a public utility or utilities such as water supply, water works, gas, lighting system, or utilities similar to the foregoing, and receives the revenue derived therefrom, then the treasurer of such city, or town, may be paid additional salary or compensation to be fixed by ordinance and the duties of the treasurer with reference to the collection and safe-keeping of the revenues derived from such public utility shall likewise be fixed by ordinance and the amount of such additional salary or compensation shall be in accordance with the additional duties and responsibilities placed upon the treasurer by reason of such public utility or utilities and shall be in such amount as the council may determine.''*

Exception, as to city of third class owning and operating a public utility.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 27, 1939.

CHAPTER 70

An Act Establishing a State Supervised Correspondence School, Providing Rules and Regulations for Carrying on the Educational Program Thereof, Providing for the Appointment of a Director Thereof, and Permitting the Use of School Funds to Carry Out the Provisions of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby created a state correspondence school which shall serve the needs of (1) eighth grade graduates who because of remoteness or inability are unable to attend a regular high school, (2) students

State correspondence school created.

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who need subjects not offered in a regular high school, and (3) home-bound incapacitated children who are unable to attend a regular school; providing that the service of this school upon the payment of a registration fee not to exceed one dollar ($1.00) per semester course, shall be available to all high school students residing five (5) or more miles from a high school and three (3) or more miles from a regularly established bus line, and further providing that the service of this school shall be available to students of a regular high school for a course or courses not offered in the high school they are attending and which course or courses are necessary for high school graduation upon payment of a registration fee not to exceed four dollars ($4.00) per semester course; providing that eighth grade graduates who because of remoteness or inability are unable to attend a regular high school shall attend a rural school subject to the rules and regulations thereof. Students may for good cause be excused from such attendance upon the approval of the county superintendent.

Registration fee.

Director.

Section 2. The director of the Montana supervised correspondence study school shall be appointed by the state superintendent of public instruction, and the rules and regulations necessary for the proper conduct of this school shall be made by the state superintendent of public instruction subject to the approval of the state board of education.

Rules and regulations.

Funds for purposes of this act.

Section 3. The State shall set aside annually not to exceed seventeen thousand five hundred dollars ($17,500.00) from the state public school general fund. Such sum shall be allotted to the state department of public instruction for the purpose of carrying out the provisions of this act. In addition thereto, all fees collected under the provisions of Section one (1) of this act are hereby appropriated.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 28, 1939.

CHAPTER 71

An Act Relating to the Power of Any City, Town, School District or Board to Operate a Program of Public

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Recreation and Playgrounds, to Acquire, Equip and Maintain Land, Buildings and/or Other Recreational Facilities, to Expend Funds Therefor; and Providing for Supervision by the State Board of Education in Certain Cases, and Repealing All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Cities, towns and school districts may cooperate for program of recreation and playgrounds.

Section 1. Any city or town, including any board of park commissioners, may expend funds from the band fund and the park fund of said city or town, and any school district, or board thereof, may cooperate for the purpose of operating a program of public recreation and playgrounds; and acquire, equip and maintain land, buildings, and/or other recreational facilities.

May act independently or in cooperation.

Section 2. Any city, town, school district, or any board thereof, including board of park commissioners, may operate such a program independently or may cooperate in its operation and conduct with any other body authorized hereby to conduct such a program and in any manner upon which they may mutually agree; or it or they may delegate the operation of the program to a board of recreation created by any city, town, school district, or any board thereof, including any board of park commissioners, operating or proposing to operate a program independently or with any cooperating bodies in such manner as they may agree, and all moneys appropriated for the purposes of such program may be expended by such board.

Gifts and bequests may be accepted.

Section 3. Any corporation, board, or body hereinbefore designated, given authority to operate and conduct a recreation program, or given charge of such program, is authorized to accept gifts and bequests in the name or names of the sponsors of said program, as said sponsors may agree, for the benefit of said recreational work, to employ directors and instructors of said recreational work, and to conduct its activities on:

(1) Property under its custody and management;

(2) Other public property under the custody of any other public corporation, body, or board, with the consent of such corporation, body, or board; and

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(3) Private property, with the consent of its owners.

Authority of state board of education when school property is utilized.

Section 4. In all cases where school property is utilized, the state board of education shall have authority:

(1) To establish minimum qualifications of local recreational directors and instructors; and

(2) To prepare, or cause to be prepared, published and distributed, adequate and appropriate manuals and other materials as it may deem necessary or suitable to carry on said recreational program and to carry out the provisions of this act.

Use of school facilities for recreational purposes to be secondary.

Section 5. The facilities of any school district operating a recreational program pursuant to the provisions of this act shall be used primarily for the purpose of conducting a regular school curriculum and the use of school facilities for recreational purposes authorized by this act shall be secondary.

Repealing clause.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 28, 1939.

CHAPTER 72

An Act to Declare the Necessity of Creating Governmental Subdivisions of the State, to Be Known as "Soil Conservation Districts", to Engage in Conserving Soil Resources and Preventing and Controlling Soil Erosion; to Establish the State Soil Conservation Committee; and to Define Its Powers and Duties; to Provide for the Creation of Soil Conservation Districts; to Define the Powers and Duties of Soil Conservation Districts, and to Provide for the Exercise of Such Powers, Including the Power to Acquire Property by Purchase, Gift and Otherwise; to Empower Such Districts to Adopt Programs and Regulations for the Discontinuance of Land-use Practices Contributing to Soil Wastage and Soil Erosion; and the Adoption and Carrying Out of Soil-conserving Land-use Practices, and to Provide for the Enforcement of Such Programs and Regulations; to Provide for Establishing Boards of Adjustment in Connection with Land-use Regulations,

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and to Define Their Functions and Powers; to Provide for the Discontinuance of Such Soil Conservation Districts; to Provide for the Financial Assistance to Such Soil Conservation Districts; and to Repeal Chapter 157 of the Laws of the Regular Session of the Twenty-fifth Legislative Assembly.

Be it enacted by the Legislative Assembly of the State of Montana:

Short title of act.

Section 1. **Short Title.** This act may be known and cited as "the state soil conservation districts law."

Legislative determinations.

Section 2. **Legislative Determinations, and Declaration of Policy.** It is hereby declared, as a matter of legislative determination:

The condition.

A. **The Condition.** That the farm and grazing lands of the State of Montana are among the basic assets of the State and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this State by wind and water; that the breaking of natural grass, plant, and forest-cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any land occupier to conserve the soil and control erosion upon his lands causes a washing and blowing of soil and water from his lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible.

The consequences.

B. **The Consequences.** That the consequences of such soil erosion in the form of soil-blowing and soil-washing are the silting and sedimentation of stream channels, reservoirs, dams and ditches; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction

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in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops and range cover grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought and causes crop and range vegetation cover failures; and increase in the speed and volume of rainfall run-off, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to operate eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms, and losses in municipal water supply, irrigation developments, farming and grazing.

The appropriate corrective methods.

C. **The Appropriate Corrective Methods.** That to conserve soil resources and control and prevent soil erosion, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of water spreaders, terraces, terrace outlets, check dams, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, and contour furrowing; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees and grasses; forestation and reforestation; rotation of crops, restriction of number of livestock grazed, deferred grazing, rodent eradication; soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops; retardation of run-off by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

Declaration of policy.

D. **Declaration of Policy.** It is hereby declared to be the policy of the legislature to provide for the conserva-

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tion of the soil and soil resources of this State, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this State.

Section 3. **Definitions.** Wherever used or referred to in this act, unless a different meaning clearly appears from the context: Definitions.

(1) "District" or "soil conservation district" means a governmental subdivision of this State, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth; "District."

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act; "Supervisor."

(3) "Committee" or "state soil conservation committee" means the agency created in Section 4 of this act; "Committee."

(4) "Petition" means a petition filed under the provisions of Sub-section A of Section 5 of this act for the creation of a district; "Petition."

(5) "Nominating petition" means a petition filed under the provisions of Section 6 of this act to nominate candidates for the office of supervisor of a soil conservation district; "Nominating petition."

(6) "State" means the State of Montana;

(7) "Agency of this State" includes the government of this State and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this State; "Agency of this state."

(8) "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America; "United States."

(9) "Government" or "governmental" includes the government of this State, the government of the United "Government."

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States, and any sub-division, agency, or instrumentality, corporate or otherwise of either of them;

"Land occupier."

(10) "Land occupier" or "occupier of land" includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as owner, lessee, renter, tenant, or otherwise;

"Due notice."

(11) "Due notice" means notice published at least twice, with an interval of at least fourteen (14) days between the two publication dates, in a newspaper or other publication of general circulation within the proposed area, or by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

Section 4. **State Soil Conservation Committee.**

State soil conservation committee.

A. There is hereby established, to serve as an agency of the State and to perform the functions conferred upon it in this act, the state soil conservation committee. The state soil conservation committee shall consist of seven (7) members. The following shall serve as members of the committee: The director of the state agricultural experiment station at Bozeman, Montana; the director of the state extension service at Bozeman, Montana; one member of the state grazing commission designated by that commission; one member of the water conservation board designated by that board and the commissioner of the state department of agriculture. Two (2) additional farmer members shall be chosen by the governor, one from each of a group of five (5) to be submitted by each of the two (2) leading farm organizations. The committee may invite the secretary of agriculture of the United States of America to appoint one person to serve with the above-mentioned members as a non-voting member of the committee. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and

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regulations as may be necessary for the execution of its functions under this act.

Authority and privileges of committee.

B. The state soil conservation committee may employ an administrative officer and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the State for such legal services as it may require, or may employ its own counsel and legal staff. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. It shall be supplied with suitable office accommodations at the state college at Bozeman, Montana, and shall be furnished with the necessary supplies and equipment. Upon request of the committee for the purpose of carrying out any of its functions, the supervising officer of any state agency or of any state institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the committee may request.

Chairman.

C. The committee shall annually elect a chairman from its own membership. State committeemen shall continue as members of the state committee so long as they shall retain the offices by virtue of which they shall be serving on the committee. The appointed farmer members shall hold office for four (4) years and their term of office shall be concurrent with the governor. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Ex-officio members of the committee shall receive no compensation for their services on the committee. Other members of the committee shall receive five dollars ($5.00) per day while on duty. All members of the state committee shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all pro-

Compensation of members.

Bonds for officers and employees.

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ceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the account of receipts and disbursements.

Additional duties and powers of committee.

D. In addition to the duties and powers hereinafter conferred upon the state soil conservation committee, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs;

(2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experiences of all other districts organized hereunder, and to facilitate an interchange of advice and experiences between such districts and cooperation between them;

(3) To coordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation;

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this State, in the work of such districts;

(5) To disseminate information throughout the State concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable.

Creation of soil conservation districts.

Section 5. **Creation of Soil Conservation Districts.**

A. Any ten (10) occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the state soil conservation committee asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

(1) The proposed name of said district;

(2) That there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory described in the petition;

(3) A description of the territory proposed to be organized as a district, which description shall not be

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required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate;

(4) A request that the state soil conservation committee duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the committee determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the state soil conservation committee may consolidate all or any of such petitions.

B. Within thirty (30) days after such a petition has been filed with the state soil conservation committee, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this act, and upon all questions relevant to such inquiries. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determinations and in defining such boundaries, the committee shall give due weight and consideration to the topography of the area considered

Notice of proposed hearing.

Matters to be considered.

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and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this act, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislative determinations set forth in Section 2 of this act. The territory to be included within such boundaries need not be contiguous. If the committee shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six (6) months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearing held and determinations made thereon.

Subsequent petitions.

C. After the committee has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this act is administratively practicable and feasible. To assist the committee in the determination of such administrative practicability and feasibility, it shall be the duty of the committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county(ies) of ....., ..., and ....." and "Against creation of a soil

Referendum, and notice thereof.

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conservation district of the lands below described and lying in the county(ies) of..... and ....." shall appear, with a square before each proposition and a direction to insert an "X" mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the committee. All occupiers of lands lying within the boundaries of the territory, as determined by the state soil conservation committee, shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote.

Duty of committee in respect to referenda.

D. The committee shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

E. The committee shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the

Matters to be considered in determining practicability of proposed district.

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approximate wealth and income of the land occupiers of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determinations set forth in Section 2 of this act; provided, however, that the committee shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least sixty-five (65) percent of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

Required percent of votes in favor of district.

F. If the committee shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two (2) supervisors to act with the three (3) supervisors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this State and a public body corporate and politic, upon the taking of the following proceedings:

Supervisors.

Proceedings whereby district may become governmental subdivision.

The two (2) appointed supervisors shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals): (1) That a petition for the creation of the district was filed with the state soil conservation committee pursuant to the provisions of this act, and that the proceedings specified in this act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this act; and that the committee has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location of the principal offices of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this State to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the

Application to secretary of state; recitals.

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application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the state soil conservation committee, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the committee did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed sixty-five (65 percent of the votes cast in such referendum to be in favor of the creation of the district; that thereafter the committee did duly determine that the operation of the proposed district is administratively practicable and feasible; the said statement shall set forth the boundaries of the district as they have been defined by the committee.

Duty of secretary of state in respect to application.

The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this State or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil conservation district of this State, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the state soil conservation committee, which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this State and a public body corporate and politic. The secretary of state shall make and issue to the said supervisors without cost a certificate, under the seal of the State, of the due organization of the said district, and shall record such certificate with the application and statement. The

Certiifcate of due organization of district.

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boundaries of such district shall include the territory as determined by the state soil conservation committee as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this act.

G. After six (6) months shall have expired from the date of entry of a determination by the state soil conservation committee that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this act.

Petitions for including additional territory within an existing district.

H. Petitions for including additional territory within an existing district may be filed with the state soil conservation committee, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act for petitions to organize a district. Where the total number of land occupiers in the area proposed for inclusion shall be less than ten (10), the petition may be filed when signed by a majority of the occupiers of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote.

Judicial effect of certificate of secretary of state.

I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this act upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate, duly certified by the secretary of state, shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof.

Section 6. **Election of Supervisors for Each District.** Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the state soil conservation committee to nomi-

Election of supervisors for district.

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nate candidates for supervisors of such districts. The committee shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the committee unless it shall be subscribed by ten (10) or more occupiers of lands lying within the boundaries of such district. Land occupiers may sign more than one such nominating petition to nominate more than one candidate for supervisor. The committee shall give due notice of an election to be held for the election of three (3) supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall be printed, arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and a direction to insert an "X" mark in the square before any three (3) names to indicate the voter's preference. All occupiers of lands lying within the district shall be eligible to vote in such election. Only such land occupiers shall be eligible to vote. The three (3) candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The committee shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of votes therein, and shall publish the results thereof.

Who are eligible to vote.

Section 7. **Appointment, Qualifications and Tenure of Supervisors.** The governing body of the district shall consist of five (5) supervisors, elected as provided hereinabove.

Governing body of district.

The supervisors shall annually elect a chairman from their members. The term of office of each supervisor shall be three (3) years, except that the supervisors who are first appointed shall be designated to serve for terms of one (1) and two (2) years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected and has qualified. Vacancies shall be filled for the unexpired term. The selection of successor to fill an unexpired term, or for a full term shall be by election. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive no

Term of office.

Vacancies.

Quorum.

Compensation.

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compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties.

Duties of supervisors.

The supervisors may employ a secretary and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The supervisors may call upon the attorney general of the state for such legal services as they may require, or may employ their own counsel and legal staff. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the state soil conservation committee, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as may be required in the performance of its duties under this act.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings, and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the state soil conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

Powers of districts and supervisors.

Section 8. **Powers of Districts and Supervisors.** A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this State, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other Sections of this act:

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Investigate soil erosion and publish results.

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this State or any of its agencies, or with the United States or any of its agencies;

Conduct demonstrational projects.

(2) To conduct demonstrational projects within the districts on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled;

Preventive and control measures.

(3) To carry out preventive and control measures within the district, including, but not limited to, engineering operations, range management, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in Subsection C of Section 2 of this act, on lands owned or controlled by this State or any of its agencies with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands;

Cooperation in erosion control and prevention operations.

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion-control and prevention operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this act;

Acquisition of property.

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or

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interests therein, and all such property shall be exempt from taxation by the state or any political subdivision thereof, to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this act;

To make available machinery, material and equipment.

(6) To make available on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion;

Structures.

(7) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

Plans.

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable, for the effectuation of such plans, including the specification of engineering operations, range management, methods of cultivation, the growing of vegetation, cropping and range programs, tillage and grazing practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

To take over projects undertaken by the United States.

(9) To take over, by purchase, lease, or otherwise, and to administer any soil-conservation, erosion-control, or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this State or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this State or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this State or any of its agencies, in connection with the acquisition, construction, operation,

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or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this State or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

Corporate functions.

(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not consistent with this act, to carry into effect its purposes and powers;

Contributions in money may be required for benefits to lands not owned or controlled by state.

(11) As a condition to the extending of any benefits under this act to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon;

Provisions relating to other public bodies not applicable unless so stated.

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state.

Adoption of land use regulations.

Section 9. **Adoption of Land Use Regulations.** The supervisors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the occupiers of lands lying within the boundaries of the district for their indi-

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cation of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance No....., prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No....., prescribing land-use regulations for conservation of soil and prevention of erosion" shall appear, with a square before each proposition and a direction to insert an "X" mark in the square before one or the other of said propositions as the voter may favor or oppose approval of such proposed ordinance. The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All occupiers of lands within the district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

Proposed ordinance shall be submitted to voters.

The supervisors shall not have authority to enact such proposed ordinance into law unless at least sixty-five (65) percent of the votes cast in such referendum shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by sixty-five (65) percent of the votes cast in such referendum shall not be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this Section by the supervisors of any district shall have the force and effect of law in the said district and shall be binding and obligatory upon all occupiers of lands within such district.

Percentage of votes required for approval.

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Any occupier of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this Section shall be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this Section shall not be amended, supplemented, or repealed, except in accordance with the procedure prescribed in this Section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more often than once in six (6) months.

Amendment or repeal of ordinance.

The regulations to be adopted by the supervisors under the provisions of this Section may include:

Regulations may include what.

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of water spreaders, terraces, terrace outlets, check dams, dikes, ponds, ditches, fences, and other necessary structures;

2. Provisions requiring observance of particular methods of cultivation or grazing, including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation and reforestation;

3. Specifications of cropping and range programs and tillage and grazing practices to be observed;

4. Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

5. Provisions for such other means, measures, operations, and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in Section 2 of this act.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, grazing and

Uniformity of regulations.

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cropping programs, and tillage and range practices in use, and other relevant factors and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this Section shall be printed and made available to all occupiers of lands lying within the district.

Performance of work under the regulations by supervisors.

Section 10. **Performance of Work Under the Regulations by the Supervisors.** The supervisors shall have authority to go upon any lands within the district after a complaint shall have been filed with the supervisors charging a violation of the regulations, to determine whether land-use regulations adopted under the provisions of Section 9 of this act are being observed. Where the supervisors of any district shall find that any of the provisions of land-use regulations prescribed in any ordinance adopted in accordance with the provisions of Section 9 hereof are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands, and is interfering with the prevention or control of erosion on other lands within the district,

Proceeding in district court in relation to nonobservance of regulations.

the supervisors may present to the district court of the county in which the lands of the defendant may lie, a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant land occupier to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the occupier of such land. Upon the presentation of such petition, the court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report

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the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may dismiss the petition; or it may require the defendant to perform the work, operations, or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the court, and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations or otherwise bring the condition of such lands into conformity with the requirements of the regulations and recover the costs and expenses thereof, with interest at the rate of five (5) per centum per annum, from the occupier of such lands. In all cases where the person in possession of lands, who shall fail to perform such work, operations, or avoidances shall not be the owner, the owner of such lands shall be joined as party defendant.

The court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the court the supervisors may file a petition with the court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The court shall have jurisdiction to enter judgment for the amount of such costs and expenses, with interest at the rate of five (5) per centum per annum until paid, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court.

Section 11. **Board of Adjustment.**

Board of adjustment.

A. Where the supervisors of any district organized under the provisions of this act shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of Section 9 hereof, they shall further provide by ordinance for the establishment of a board of adjustment. Such board of adjustment shall consist of three (3) members, each to be appointed for a term of three (3) years, except that the members first appointed shall be appointed for terms of 1, 2, and 3 years, respectively. The members of each such board of adjustment shall be appointed by the state soil conservation

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committee, with the advice and approval of the supervisors of the district for which such board has been established, and shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly by the state soil conservation committee and the supervisors of the district. Vacancies in the board of adjustment shall be filled in the same manner as original appointments and shall be for the unexpired term of the member whose term becomes vacant. Members of the state soil conservation committee and the supervisors of the district shall be ineligible to appointment as members of the board of adjustment during their tenure of such other office. The members of the board of adjustment shall receive compensation for their services at the rate of four dollars ($4.00) per diem for time spent on the work of the board, in addition to expenses, including traveling expenses, necessarily incurred in the discharge of their duties. The supervisors shall pay the necessary administrative and other expenses of operation incurred by the board, upon the certificate of the chairman of the board.

Compensation of members.

Organization and duties of board.

B. The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this act and with provisions of any ordinance adopted pursuant to this Section. The board shall annually elect a chairman from among its members. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any two (2) members of the board shall constitute a quorum. The chairman, or in his absence, such other member of the board as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the board and shall be a public record.

Petition by land occupier for variance from regulations.

C. Any land occupier may file a petition with the board of adjustment, alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by ordinance approved

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by the supervisors, and praying the board to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands occupied by the petitioner. Copies of such petition shall be served by the petitioner upon the chairman of the supervisors of the district within which his lands are located and upon the chairman of the state soil conservation committee. The board of adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the state soil conservation committee shall have the right to appear and be heard at such hearing. Any occupier of lands lying within the district who shall object to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the board may appear in person, by agent, or by attorney. If, upon the facts presented at such hearing the board shall determine that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the board shall have power by order to authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land-use regulations shall be observed, the public health, safety, and welfare secured, and substantial justice done.

Hearing and notice thereof.

Power of board in respect to matter.

D. Any petitioner aggrieved by an order of the board granting or denying, in whole or in part, the relief sought, the supervisors of the district or any intervening party, may obtain a review of such order in any district court of the county in which the lands of the petitioner may lie, by filing in such court a petition praying that the order of the board be modified or set aside. A copy of such petition shall forthwith be served upon the parties to the hearing before the board and thereupon the party seeking review shall file in the court a transcript of the

Review in district court.

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entire record in the proceedings, certified by the board, including the documents and testimony upon which the order complained of was entered, and the findings, determination, and order of the board. Upon such filing, the court shall cause notice thereof to be served upon the parties and shall have jurisdiction of the proceedings and of the questions determined or to be determined therein, and shall have power to grant such temporary relief as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board. No contention that has not been urged before the board shall be considered by the court unless the failure or neglect to urge such contention shall be excused because of extraordinary circumstances. The findings of the board as to the facts, if supported by evidence, shall be conclusive. If any party shall apply to the court for leave to produce additional evidence and shall show to the satisfaction of the court that such evidence is material and that there were reasonable grounds for the failure to produce such evidence in the hearing before the board, the court may order such additional evidence to be taken before the board and to be made a part of the transcript. The board may modify its findings as to the facts or make new findings, taking into consideration the additional evidence so taken and filed, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and shall file with the court its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review in the same manner as are other judgments or decrees of the court.

Power of the district court in review.

Section 12. **Cooperation Between Districts.** The supervisors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act.

Cooperation between districts.

Section 13. **State Agencies to Cooperate.** Agencies of this State which shall have jurisdiction over, or be charged with the administration of any State-owned lands, and of any county, or other governmental subdivision of the State, which shall have jurisdiction over, or be charged with the administration of, any county-owned

State agencies to cooperate.

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or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this act. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to Section 9 of this act shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.

Discontinuance of districts, procedure for.

Section 14. **Discontinuance of Districts.** At any time after five (5) years after the organization of a district under the provisions of this act, any ten (10) occupiers of land lying within the boundaries of such district may file a petition with the state soil conservation committee, praying that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the committee it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the .....(name of the soil conservation district to be here inserted)" and "Against terminating the existence of the .....(name of the soil conservation district to be here inserted)" shall appear, with a square before each proposition and a direction to insert an "X" mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All occupiers of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relative thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

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The committee shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the district, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in Section 2 of this act; provided, however, that the committee shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Upon receipt from the state soil conservation committee of a certification that the committee has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this Section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the state treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the state soil conservation committee, setting forth the determination of the committee that

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the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this Section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Certificate of dissolution.

Upon issuance of a certificate of dissolution under the provisions of this Section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The state soil conservation committee shall be substituted for the district or supervisors as party to such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of Section 10 of this act, nor the pendency of any action instituted under the provisions of such Section, and the committee shall succeed to all rights and obligations of the district or supervisors as to such liens and actions.

Unexecuted contracts to remain in force.

Section 15. **Disposition of Funds.**

A. Unless otherwise provided by law, all moneys which may from time to time be appropriated out of the state treasury to pay the administrative and other expenses of soil conservation districts organized under the provisions of this act shall be allocated by the state soil conservation committee among the districts already organized, or to be organized, during the ensuing biennial fiscal period, in accordance with the procedure specified in Subsection B of this Section. All moneys allocated to any district by the said committee shall be available to the supervisors of such district for all administrative and other expenses of the district under this act and for all

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administrative and other expenses of the board of adjustment established or to be established by said district.

B. Seventy-five (75) per centum of all moneys which may be appropriated to pay the administrative and other expenses of soil conservation districts shall be allocated by the state soil conservation committee among all the districts organized, or to be organized, within the ensuing biennial fiscal period, under this act, in direct proportion to the total acreage of land within each district. The remaining twenty-five (25) per centum of said moneys shall be allocated by the state committee among the districts on such basis of allocation as shall be fair, reasonable, and in the public interest, giving due consideration to the greater relative expense of carrying on operations within the particular districts because of such factors as unusual topography, unusual severity of erosion, special difficulty of carrying on operations, special volume of work to be done, and the special importance of instituting erosion control operations immediately. In making allocations of such moneys, the committee shall retain an amount estimated by it to be adequate to enable it to make subsequent allocations in accordance with the provisions of this Section from time to time among districts which may be organized after the initial allocations are made, but within the ensuing biennial fiscal period.

Committee shall request an appropriation as provided in the budget act.

C. The state soil conservation committee shall submit to the state board of examiners, on or before the first day of November of each year preceding a regular session of the legislative assembly a request for an appropriation as provided in the Budget Act. The request for an appropriation shall state, in addition to the requirements of the Budget Act, the following:

Information to be stated in request.

The number and acreages of districts in existence or in process of organization, together with an estimate of the number and probable acreages of the districts which may be organized during the ensuing biennial fiscal period; a statement of the balance of funds, if any, available to the committee and to the districts; and the estimates of the committee as to the sums needed for its administrative and other expenses and for allocation among the several districts during the ensuing biennial fiscal period.

Separability clause.

Section 16. **Separability Clause.** If any provisions of this act, or the application of any provision to any person

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or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Inconsistency with other acts.

Section 17. **Inconsistency With Other Acts.** Insofar as any of the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

Repealing clause.

Section 18. **Repeal.** Chapter 157 of the laws of the regular session of the twenty-fifth legislative assembly is hereby repealed.

Effective date.

Section 19. **Effective Date.** This act shall be in full force and effect from and after its passage and approval.

Approved February 28, 1939.

CHAPTER 73

An Act to Amend Sections 5132, 5133 and 5134 of the Revised Codes of Montana, 1935, Relating to Service Pensions, Disability Pensions and Widows' or Orphans' Pensions to Be Paid Members or Survivors of Members of Fire Departments in the Cities and Towns Where Firemen's Relief Associations Have Been Formed.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5132, R. C. 1935, amended.

Section 1. That Section 5132 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Pensions to retired firemen.

"5132. **Pensions to Retired Firemen.** *Each and* every fire department relief association *organized and existing under the laws of this State shall pay to each of its members who elect to retire from active service after having completed* twenty (20) years *or more of active duty and has reached the age of fifty (50) years on the* volunteer, paid, or partly paid and partly volunteer fire department *of the city or town wherein* such association *has been formed, out of any money in the association's 'disability and pension fund', a 'service pension' in an amount not to exceed one-half of the sum last received by the member*

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as a monthly compensation for his services as an active member of said fire department. Provided, such association may at any time, by a majority vote of the members thereof, increase or decrease the said service pension whenever the financial condition of the association's 'disability and pension fund' shall warrant such action; provided that no increase shall be effected as will increase the said 'service pension' to an amount in excess of a sum equal to one-half of the monthly active duty compensation last received by the member. In case of volunteer men the compensation shall *in no event* exceed the sum of seventy-five dollars ($75.00) per month."

Sec. 5133, R. C. 1935, amended.

Section 2. That Section 5133 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Disability pension.

"5133. *Disability Pension. Each and* every fire department relief association, *organized and existing under the laws of this State, shall pay a 'disability pension', out of any moneys in the association's disability and pension fund, to each and every member of said association who has become injured or disabled by reason of sickness or injury contracted or received in line of duty, in an amount not to exceed* one-half of the sum last received as a monthly *compensation* by such *injured or disabled member for services rendered the fire department of the city or town wherein such association has been formed. Provided, such association may at any time, by a majority vote of the members thereof, increase or decrease the said 'disability pension' whenever the financial condition of the association's 'disability and pension fund' shall warrant such action. Provided further that no member of said association shall be entitled to receive said 'disability pension' so long as he may be receiving an allowance or award under the provisions of* the Montana workmen's compensation act. In case of volunteer *firemen such disability* pension shall *in no event* exceed the sum of seventy-five dollars ($75.00) per month."

Sec. 5134, R. C. 1935, amended.

Section 3. That Section 5134 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Pensions to widows or orphans.

"5134. **Pensions to Widows** *or* **Orphans.** *Each and every* fire department relief association, *organized and existing under the laws of this State,* shall pay to the

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widow *or* orphans of a deceased *member of said association, who, on the date of his decease, was an active member of the fire department in the city or town wherein such association has been formed, or had elected to retire from active service of said fire department and receive a 'service pension', as provided by Section 1 of this act, or, prior to his decease, had suffered a sickness or injury in line of duty, and was receiving or was qualified to receive a 'disability pension', as provided by Section 2 of this act, out of any money in the relief association's 'disability and pension fund', a monthly pension in an amount not to exceed a sum equal to one-half of the monthly compensation last received by such deceased member for his services as an active member of the fire department in the city or town wherein such association has been formed. Provided such association may at any time, by a majority vote of the members thereof, increase or decrease the said pension; provided that no increase shall be effected as will increase said pension in an amount in excess of a* sum equal to one-half of the monthly *active duty compensation* last received by the deceased *member. Provided that said pension shall be paid to the within named widow only so long as she remains unmarried and further provided that a widow of a deceased fireman shall not be entitled to the pension, provided for by this act, in those cases where the marriage was consummated after the fireman had elected to retire from active service and receive a 'service pension' as provided for by Section 1 of this act; or in those cases where the marriage was consummated after the fireman had qualified and was receiving a 'disability pension' as provided for by Section 2 of this act. Provided further, that the pension herein provided for shall not be paid to the orphans of a deceased fireman after they have attained the age of eighteen (18) years.* In case of volunteer *firemen such pension shall in no event* exceed the sum of seventy-five dollars ($75.00) per month."

Separability clause.

Section 4. If any clause, sentence, paragraph, section, or any part of this act, shall be declared and adjudged to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect, invalidate, or nullify the remaining portions of this act.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

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Effective date.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 28, 1939.

CHAPTER 74

An Act Permitting the County Commissioners to Designate Places and Provide Facilities for Unloading and Loading of Livestock for Inspection Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Places and facilities for unloading and loading livestock.

Section 1. The board of county commissioners may designate within their respective counties certain convenient places and provide suitable facilities at said places for unloading and loading of livestock for inspection purposes.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after July 1, 1939.

Approved February 28, 1939.

CHAPTER 75

An Act to Amend Section 1262.14 of the Revised Codes of the State of Montana of 1935, Relating to and Increasing the Bond Limit of Counties of the Fifth Class for County High School Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1262.14, R. C. 1935, amended.

Section 1. That Section 1262.14 of the Revised Codes of the State of Montana of 1935, relating to the bond limit of counties for county high school purposes, be, and the same is hereby amended to read as follows:

Bond limit.

"Section 1262.14. **Bond Limit—Term—Rate of Interest—Form.** In any county of the first second, third, fourth *or fifth* class the amount of all bonds requested or authorized under the provisions of this Chapter shall not

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exceed, in any one county, in the aggregate as outstanding obligations of the county the sum of four hundred thousand dollars ($400,000.00), and in all other counties, in any one county, the sum of three hundred thousand dollars ($300,000.00). Such bonds shall mature in twenty (20) years, or less, and shall bear interest and the general form of the bonds shall be fixed by the board of county commissioners."

Term.

Rate of interest.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 28, 1939.

CHAPTER 76

An Act Providing for the Admission of Dorothy Blanche FitzGerald, Disabled Daughter of a Disabled Spanish American War Veteran, to the Montana Soldiers' Home at Columbia Falls, Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Dorothy Blanche FitzGerald, a resident of Bozeman, Gallatin County, Montana, permanently and totally disabled by reason of having suffered a broken back, said Dorothy Blanche FitzGerald being the daughter of Lee Houghton FitzGerald, an honorably discharged sailor of the Spanish American War and the Philippine insurrection, himself permanently and partially disabled in varying degrees and sometimes resident in said soldiers' home requiring treatment therein, is hereby declared eligible to admission to the Montana Soldiers' Home at Columbia Falls, Montana.

Dorothy Blanche FitzGerald declared eligible to admission to Soldiers' Home.

Section 2. The commandant of the Montana Soldiers' Home at Columbia Falls, Montana, is hereby instructed to admit Dorothy Blanche FitzGerald to said home and to keep and maintain her thereat and to make provision for her therein.

Duty of commandant.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 28, 1939.

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CHAPTER 77

An Act to Amend Section 9429 of the Revised Codes of Montana, 1935, Relating to the Exemption of Earnings of a Judgment Debtor for Debts Incurred for Necessaries.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 9429, R. C. 1935, amended.

Section 1. That Section 9429 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Exemption of earnings.

"Section 9429. **Exemption of Earnings—Debts Incurred for Necessaries.** The earnings of the judgment debtor for his personal services rendered at any time within forty-five days next preceding the levy of execution or attachment, when it appears by the debtor's affidavit or otherwise that such earnings are necessary for the use of his family, supported in whole or in part by his labor, are exempt; but where debts are incurred by any such person or his wife or family *for gasoline and* for the common necessaries of life, then the one-half of such earnings above mentioned are nevertheless subject to execution, garnishment, and attachment, to satisfy debts so incurred. The words 'his family', as used herein, are to be construed with the words 'head of family', as used in Section 6969."

Repealing clause.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. That this act shall be in full force and effect from and after its passage and approval.

Approved February 28, 1939.

CHAPTER 78

An Act Relating to the Preservation of Historical, Archaeological and Scientific Resources of the State of Montana; Creating and Establishing a Commission to Be Known as the Science Commission of Montana; Designating the Members Thereof, and Prescribing the Duties, Powers and Authority of Said Commission;

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Providing Penalties for Violation of This Act, and Providing That All Acts or Parts of Acts in Conflict With or Within the Purview of This Act Are Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

Science commission created.

Section 1. There is hereby created a body to be known as the science commission of Montana, which shall be composed of the following heads of the state educational and scientific institutions, viz: The presidents of the University of Montana, the Montana State Agricultural College, the Montana State School of Mines, the normal schools of Montana, the librarian of the historical library at Helena, and the state superintendent of public instruction. Said commission by and with the advice and consent of the commissioner of state lands shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this act and shall perform all the duties prescribed herein without pay.

Historic and prehistoric structures may be declared state monuments.

Section 2. That the commissioner of the state land office is hereby authorized on recommendation of the science commission of Montana with the approval of the commissioner of public lands to declare by public proclamation that historic and prehistoric structures and other objects of scientific interest that are situated upon the lands owned or controlled by the State of Montana, shall be state monuments, and may reserve as a part thereof such parcels of land as may be necessary to the proper care and management of the objects to be protected.

Permits to examine ruins and excavate archaeological sites.

Section 3. That permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity, or general scientific interest, may be granted by the commissioner of public lands on recommendation of the science commission of Montana to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as the aforesaid commission with the approval of the commissioner of public lands may prescribe: Provided, that the examinations and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view of increasing the

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knowledge of such objects, and: Provided, that not less than fifty per cent of all specimens so collected by non-resident institutions shall be retained as the property of the State of Montana, unless the commissioner of public lands shall expressly accept a smaller proportion, as meeting the requirements of this act, and: Provided, that this act shall not interfere with the making of natural history collections by individuals, for scientific purposes only, provided that such individuals secure permits as prescribed in this Section.

Depository for collections.

Section 4. Unless other locations be designated by the commission, the historical society of Montana shall be the depository for all collections made under the provisions of this act and shall distribute material from such collections to any museum throughout the State of Montana, on request of the governing bodies of the said local museums, when in the opinion of the science commission, proper arrangements are made for the safe custodianship and public exhibition of such material.

Exportation of historic and scientific material forbidden, except under permits.

Section 5. The disposition of historic and scientific material referred to in this act, to individuals or institutions outside the State of Montana, is expressly forbidden, except by permission of the science commission, approved by the commissioner of public lands, and the transportation by public or private carriers of such material to points outside the State of Montana, is expressly prohibited, except as may be necessary in carrying out the provisions of the permits issued by the Government of the United States under the federal statute for the preservation of American antiquities, and under the permits granted by the science commission of the State of Montana.

Penalty.

Section 6. That any person who shall appropriate, excavate, injure or destroy any historic or prehistoric ruin or monument, or any object of historical, archaeological or scientific value, situated on lands owned or controlled by the State of Montana, or its institutions, without the recommendation of the science commission of Montana and the consent of the commissioner of the state land office, shall be fined in a sum of not more than five hundred dollars ($500.00) or be imprisoned for a period of not more than ninety (90) days, or shall suffer both fine and imprisonment in the discretion of the court; and

The duty of enforcing this act.

it shall be the duty of any employee of the state land office, or any peace officer, including constables and

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sheriffs, to proceed against any violation of this law, and the duty of county attorneys of this State to prosecute anyone violating the provisions of this act.

Effective date.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Repealing clause.

Section 8. That all acts or parts of acts in conflict with or within the purview of this act, are hereby repealed.

Approved February 28, 1939.

CHAPTER 79

An Act to Amend Section 2900, Revised Codes of Montana, 1935, so as to Include Within the Provisions Thereof a Stay as to the Running of the Period of Limitations in Cases of Workmen Employed by School Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2900, R. C. 1935, amended.

Section 1. That Section 2900 of the Revised Codes of Montana, 1935, be, and the same is, hereby amended to read as follows:

Period of limitation as to minors, incompetents and workmen employed by school district.

"2900. **Exception in Case of Minors and Incompetents as to Period of Limitation** *and in Case of Workmen Employed by School Districts as to the Time When the Period of Limitations Shall Begin to Run.* No limitation of time as provided in *Section 2899 or in Chapter 256 of the Political Code of the State of Montana, Revised Codes, 1935, known as workmen's compensation act,* shall run as against any injured workman who is mentally incompetent and without a guardian, or an injured minor under eighteen years of age who may be without a parent or guardian. A guardian in either case may be appointed by any court of competent jurisdiction in which event the period of limitations as provided *for* in *Section 2899, Revised Codes of Montana, 1935,* shall begin to run on the date of appointment of such guardian, or when such minor arrives at the age of eighteen years, *whichever date may be the earlier. The period of limitations as provided for in Section 2899, Revised Codes of Montana, 1935, and any limitation of time for the filing of claims with the industrial accident*

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board contained in Chapter 256 of the Political Code of the State of Montana, Revised Codes, 1935, known as workmen's compensation act, shall not begin to run against any injured workman employed by any school district in the State of Montana until January 1, 1939."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1939.

CHAPTER 80

An Act to Amend Section 6355.13 of the Revised Codes of Montana of 1935, Relating to the Powers and Duties of Building and Loan Associations, by Increasing the Percentage of Real Estate Value That May Be Loaned on Mortgages, and to Enlarge the Powers of Such Associations to Invest Their Money.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 6355.13, R. C. 1935, amended.

Section 1. That Section 6355.13 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Powers and duties of building and loan associations.

"Section 6355.13. **Powers and Duties of Building and Loan Associations.** Every building and loan association is a creature of the law having certain powers and duties of a natural person and as such has power:

(1) Of continual succession, by its corporate name;

(2) To sue and be sued, in any court;

(3) To make and use a common seal and alter same at pleasure;

(4) To appoint such officers or agents as the business of the corporation may require, and to allow them suitable compensation;

(5) To enter into any obligations or contracts essential to the transaction of its ordinary affairs, or for the purposes of the corporation.

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(6) Such associations shall have power to issue stock to members on such terms and conditions as the constitution and by-laws may provide, but no association shall issue preferred stock.

Assessments and collections from members.

(7) To assess and collect from members dues on stock and interest on loans at the times and in the amount as provided for in the constitution and by-laws. The combined total of the amounts paid to an association for interest, commission, bonus, discount and other similar charges, less a proper deduction for all dividends, refunds, and cash credits of all kinds, shall not create an actual net cost to the borrower in excess of the maximum lawful contract rate of interest in this State. Interest not exceeding the maximum lawful contract rate may also be charged on unpaid interest payments from the time such interest payments are due. Interest, not exceeding the lawful contract rate, may also be charged and collected on delinquent stock payments when such unpaid payments are credited with dividends. Said interest shall in no event be at a rate exceeding the rate per centum of the dividend declared on the same unpaid stock payments. No association shall charge or collect from any stockholder, member or borrower, any fines, premiums, or penalties of any kind whatsoever. Any officer, agent or employee of any association collecting or attempting to collect any penalty, fine or premium of any kind whatsoever or any interest at a rate higher than provided in the note or other evidence of debt and in this act, shall be guilty of a misdemeanor.

Withdrawal of stock credits by members.

(8) To permit members to withdraw all or part of their stock credits at such times and upon such terms, as the constitution and by-laws may provide; provided that no charge or fee, except as herein provided, shall be made against any member who withdraws his stock, after having given thirty (30) days' notice of such withdrawal; provided, also, that no fine of any description shall be made upon the par value of such stock or upon the declared dividends because of such withdrawal. Any member who withdraws his stock or whose stock is matured, shall be entitled to receive all dues paid in and all dividends declared less interest, if any, as provided in Subsection 7, less a reasonable membership fee not exceeding two (2) per centum of the par value of each share of stock and less a pro rata share of all losses, if

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any, which have occurred, and no other fine or assessments shall be made against such stock. Applications for withdrawal are to be registered on the books of the association in the order received and one-half of all cash collections, not required to meet outstanding contracts, must be used for the payment of the matured stock and of the withdrawals in the order registered; provided, however, that the other half of such collections each month may be used for the payment of withdrawals other than in the order registered, but no member shall receive more than one hundred dollars ($100.00) in any one month other than by payment of an application for withdrawal in the order registered. The term "outstanding contracts" includes the costs and expenses of operation, completion of loans, payment of taxes and assessments and necessary remodeling and repairs on properties owned by or mortgaged to the association, repayment of all borrowed money and all fixed charges.

Cancellation of shares of stock.

(9) To cancel shares of stock upon which all credits have been withdrawn, or upon which loans have been cancelled or stock upon which no payments have been made for a period of six (6) months, by returning to the stockholders all credits, if any, and reissue such shares as new stock.

Issuance of stock to minors.

(10) To issue stock to minors and permit the same to be withdrawn as other stock, and the receipt of such minor shall be a valid acquittance if his rights have been fully secured to him.

Acquisition and conveyance of property.

(11) To acquire, hold, encumber and convey such real estate and personal property as may be necessary for the transaction of its business, or necessary to enforce or protect its securities. Provided, not over ten (10) per cent. of the assets of any association shall be invested in home office buildings, furniture and fixtures. Also ownership of other real property acquired in any manner or for any purpose shall not be held for more than five (5) years, except by permission of the superintendent of banks.

Borrowing of money and pledging of assets.

(12) To borrow money, only when necessary not exceeding twenty (20) per centum of its assets, and issue its promissory note therefor; provided, that the assets and securities of an association shall not be pledged or hypothecated to secure its borrowed money or for any

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other purpose, without the consent of the superintendent of banks. However, if the superintendent of banks determines that it is advisable to pledge assets in order that funds may be secured he may authorize such pledging or hypothecation; but in no event shall the margin of security pledged exceed twenty-five (25) per centum of the funds so borrowed; also to borrow money from the federal home loan bank upon such terms as may now or hereafter be required by the federal home loan bank, and to execute the promissory note of the corporation therefor, and to pledge or hypothecate any of the assets of the corporation to secure the repayment of said loan, with interest, in accordance with the federal home loan bank act, and the rules and regulations adopted or to be adopted thereunder.

Loans to members.

(13) To make loans to members on the security of the shares of the association, and also on their notes secured by first mortgages on improved real estate, including suburban homes, but not on farm lands or mining property, for not to exceed *seventy-five (75)* per centum of the actual value of such real estate, and upon such terms and conditions as may be provided in the constitution and by-laws; provided, however, that in all cases where the promissory note, or other written evidence of the loan made by any building and loan association required the payment of said loan, or total aggregate sum of principal and interest in periodic installments, said promissory note, or other written evidence of debt shall specifically state the actual interest rate charged the borrower upon the unpaid balance of the principal amount at each periodic payment; provided, further, that when the note or other evidence of debt does not require the payment of said loan in periodic installments, the note or other evidence of debt shall specifically state the actual rate of interest to be charged the borrower.

Proviso.

Provided, however, that in all notes and mortgages now in force which do not specify the actual rate of interest charged the borrower upon the unpaid balance of the principal at each periodic payment, all payments made on the said notes must be distributed by crediting the same, first, upon the interest on the unpaid balance of the loan at the rate actually earned under the terms of the notes and mortgages, and the remainder upon the principal of the loan, and no charges or deductions from

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any of said periodic payments shall be permitted by any such association not specifically provided for in said promissory note or other evidence of such loan;

(14) To cancel such loans and release the securities on such terms as the board of directors may provide. But any borrower may have his loan cancelled upon the following terms, to-wit:

By paying all the interest up to date of cancellation and the sum actually borrowed, less payments on principal, dues paid in and the dividends credited;

(15) To invest the money of the association in:

Investment of money of association.

(a) The bonds and securities of the United States, *bonds and other obligations guaranteed as to interest and principal by the United States*, and the stocks, bonds, debentures and other securities and obligations of any federal home loan bank created under the laws of the United States;

(b) The bonds and warrants of any state and of any county, city or school district of the State of Montana;

(c) The obligations of the federal savings and loan insurance corporation lawfully issued pursuant to Title IV of the national housing act;

(d) Improved real estate which has been sold under contract, including suburban homes, but not including farm lands or mining property; provided, however, that the total amount remaining so invested, excluding real estate otherwise acquired, shall at no time exceed fifteen (15) per cent. of its assets; and provided further, that in no specific case shall the amount so invested exceed eighty-five (85) per cent. of the price stipulated in the contract of sale or eighty-five (85) per cent. of the value of the property so purchased, whichever is the lesser.

(e) Not to exceed ten (10) per cent. of the association assets in other bonds and securities.

Loan money to other associations.

(16) To loan money to other building and loan associations;

(17) To make such semi-annual distribution of all the earnings after payment of expenses and setting aside a sum for the contingent funds as herein provided;

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(18) To amend its articles of incorporation by changing the name, place of business, the number of directors; to increase or decrease the capital stock and provide for its own continual succession by a majority vote of its directors; provided that no such amendments shall be effected until first approved by the superintendent of banks;

Dissolution.

(19) To dissolve the corporation in accordance with the provisions of this Chapter;

(20) To provide by constitution and by-laws, adopted or amended, by its board of directors for the proper exercise of the powers herein granted and the conduct and management of its affairs;

(21) All such other powers as are necessary and proper to enable such corporation to carry out the purpose of its organization.

Consolidation of associations.

(22) Any two (2) or more building and loan associations, by and with the consent and approval of the superintendent of banks, may consolidate and unite and become incorporated in one (1) body, with or without any dissolution or division of the funds or property of any such association, or any such association may transfer its engagements, funds and property to any like association upon such terms as may be agreed upon by a majority vote of the respective board of directors, and ratified by a two-thirds (2/3) vote of the shares present and voting in person or by proxy at a special meeting or meetings of the stockholders of the respective associations convened for that purpose, upon notice given as provided by law, said notice to state the object of the meeting. No such transfer shall prejudice any right of any creditor of such association."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed; provided, however, that this act shall not be so considered or construed as to in any way modify or repeal the provisions of Sections 6356.1, 6356.2, and 6356.3 of the Montana Revised Codes of 1935, relating to transactions under the provisions of the national housing act as amended.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1939.

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CHAPTER 81

An Act Providing for the Form, Size and Color of Ballot to Be Used in General Elections in the State of Montana: To Provide for the Designation of Office and the Manner of Placing the Names of Candidates and Their Political Designation: To Provide for Placing Names of Candidates for Judicial Offices Without Political Designation, and to Provide the Number of Columns Which Ballots May Contain, and to Provide for Rotation of Names on the Ballot: And to Provide for the Placement of Initiatives, Referendums, and Constitutional Amendments on the Ballot, and to Repeal Sections 682 and 812.12, of the Revised Codes of Montana, 1935, and also Repealing Chapter 193 of the laws of 1937, Together With All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 678, R. C. 1935, amended.

Section 1. That Section 678 of the Revised Codes of Montana, as amended by Chapter 203 of the Session Laws of the twenty-fifth legislative assembly (1937) be, and the same is hereby amended to read as follows:

County clerk to provide printed ballots.

"Section 678. Except as in this Chapter otherwise provided, it shall be the duty of the county clerk of each county to provide printed ballots for every election for public officers in which electors or any of the electors within the county participate, and to cause to be printed on the ballot the names of all candidates, including candidates for chief justice and associate justices of the supreme court and judges of the district courts, whose names have been certified to, or filed with the county clerk, in the manner provided in this Chapter. Ballots other than those printed by the respective county clerks, according to the provisions of this Chapter, must not be cast or counted in any election. Any elector may write or paste on his ballot the name of any person for whom he desires to vote for any office, *but must mark the same as provided in Section 696, and when a ballot is so marked it must be counted the same as though the name is printed upon the ballot and marked by the voter.* Any voter may take with him into the polling-place any printed or written memorandum or paper to assist him in marking or pre-

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paring his ballot except as otherwise provided in the Chapter."

Section 2. That Section 681 of the Revised Codes of Montana, be, and the same is hereby amended to read as follows:

"Section 681. *Ballots for all general elections prepared under* the provisions of this Chapter must be white in color and of a good quality of paper and the names must be printed thereon in black ink. The ballots used in any one county must be uniform in size and every ballot must contain the name of every candidate whose nomination for any special office specified in the ballot has been certified or filed according to the provisions of law and no other names, *except that the names of candidates for president and vice-president of the United States shall appear on the ballot as provided for by Section 813 of the Revised Codes of Montana, 1935."*

Color and size of ballots.

(A) *The name of each candidate nominated shall be printed upon the ballot in but one place and there shall be added after and directly opposite to the name of each candidate nominated, the party or political designation contained in the certificate or nomination of such candidate in not more than three (3) words, except that the political designation of electors for president and vice-president of the United States shall be opposite the whole list thereof, and the names of candidates for chief justice, associate justices, and district court judges shall each be followed by the following words directly underneath the name of the candidate: "Nominated without party designation." It is provided, however, that whenever any person is nominated for the same office by more than one party the designation of the party which first nominated him shall be placed opposite his name unless he declines in writing, one or more of such nomination, or by written election indicates the party designation which he desires printed opposite his name; or if he is nominated by more than one party at the same time he shall within the time fixed by law for filing certificates of nomination, file with the officer with whom his certificate of nomination is required to be filed, a written election indicating the party designation which he desires printed opposite his name, and it shall be so printed. If he shall fail or neglect to file such an election no party designation shall be placed opposite his name.*

Names and party of candidates to be printed on ballots.

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Arrangement of names of candidates.

(B) *The names of all candidates shall be arranged alphabetically according to surnames under the appropriate title of the respective offices. It is provided, however, that, while all of the candidates for the particular office shall remain together in the same box, yet the candidates of the two major parties shall appear on the ballot before and above the candidates of the minor parties and independent candidates. For the purpose of designating the candidates of the two major parties, they shall be those candidates of the two parties whose candidates for governor, excluding independent candidates, have been either first or second, (by receiving the highest or next highest number of votes cast for the office of governor at the particular election) the greatest number of times at the next preceding four (4) general elections. In case of a tie in the number of first or second places, the determination shall be made by going back enough preceding elections to break the tie and no farther. All other candidates shall be designated as either independent candidates or as belonging to minor parties. When two or more persons are candidates for election or the same office, including presidential and vice-presidential candidates, it shall be the duty of the county clerk in each of the counties of the state to divide the ballot forms provided by the law for the county, into sets so as to provide a substantial rotation of the names of the respective candidates as follows:*

Rotation of names of candidates.

He shall divide the whole number of ballot forms for the county into sets equal in number to the greatest number of candidates for any office, and he shall so arrange said sets that the names of the candidates shall, beginning with a form arranged in alphabetical order, (for the purposes of rotation of presidential and vice-presidential candidates, the office of president and vice-president, together with presidential electors shall be considered as a group and alphabetized under the name of the candidate for president), be rotated by removing one name from the top of the list for each office and placing said name or number at the bottom of that list for each successive set of ballot forms; provided, however, that no more than one of said sets shall be used in printing the ballot for use in any one precinct, and that all ballots furnished for use in any precinct shall be of one form and identical in every respect. It is further provided that candidates of the two major parties as hereinabove defined shall be rotated as one group

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and the candidates of the minor parties and independent candidates shall be rotated as another group so that the candidates of the two major parties for a particular office shall appear on the ballot before and above any candidates of the minor parties or independent candidates.

Columns and material to be printed upon ballots.

(C) *Each ballot shall contain at the top the stub as provided by Section 684 of the Revised Codes and directly underneath the perforated line shall be the following words in bold face type, "VOTE IN ALL COLUMNS." Each ballot shall contain two (2), and not more than two (2) columns for the election of state, national, county and township officers. The first two columns and no others shall be used for the election of officers. Provided, however, that a third column and as many additional columns as may be necessary shall be used for constitutional amendments, and initiative and referendum measures. In the first column and the left, which shall be designated at the head with the words, "state and national", in large bold face type, shall be listed all candidates for state and national offices, including supreme court justices, and district court judges, and in the second column, which shall be designated at the head with the words, "county and township", in large bold face type, shall be listed all candidates for the legislative assembly, county and township offices. The third column and any additional column shall be designated at the head with the words, "initiatives, referendums, and constitutional amendments", in large bold face type, and listed thereunder shall be all proposed constitutional amendments and measures to be voted on by the people at such election. In case there are no such measures, this column shall be eliminated. The columns shall be separated by two straight lines at least one-half an inch apart.*

(D) *At the bottom of the first column, or the column to the left, there shall be placed the following words, "vote for county and township offices in the next column". At the bottom of the second column, if there be any initiatives, referendums or constitutional amendments, and every column except the last column, there shall be the following words, "vote on initiatives, referendums and constitutional amendments in the next column".*

(E) *The order of the placement of the offices on the ballot in the first column, or to the left, designated "state*

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Order of placement of state and national offices in first column.

and national", shall be as follows: "President and vice-president, together with the presidential electors; United States senator; United States representative in congress; governor; lieutenant governor; secretary of state; attorney general; state treasurer; state auditor; railroad and public service commissioners; state superintendent of public instruction; clerk of the supreme court; chief justice of the supreme court; associate justice or justices of the supreme court; district court judges"; provided, however, that in the years in which any of such offices are not to be elected, such offices shall not be designated, but the order of those offices to be filled shall maintain their relative positions as herein provided.

Order of placement of county and township offices in second column.

In the second column, designated, "county and township", the following order of placement shall be observed: "state senator; member or members of the house of representatives; clerk of district court; county commissioner; county clerk and recorder; sheriff; county attorney; county auditor". Such other offices to be elected shall be placed following the foregoing in the order deemed most appropriate by the county clerk. In the third column constitutional amendments shall come first with referendum and initiative measures following.

(F) *In case of a short term and a long term election for the same office, the long term office shall precede the short term. The ballots shall be so printed as to give each voter a clear opportunity to designate his choice of candidates by a cross mark, (X) in a square at the left of the name of each candidate. Above each group of candidates for each office shall be printed the words designating the particular office in bold face capital letters and directly underneath the words, "vote for" followed by the number to be elected to such office. As nearly as possible the ballot shall be in the following form: (Stub hereinafter provided for by Section 684.)*

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Form of ballot.

Perforated Line

VOTE IN ALL COLUMNS

STATE AND NATIONAL	COUNTY AND TOWNSHIP	INITIATIVES, REFERENDUMS AND CONSTITUTIONAL AMENDMENTS
FOR PRESIDENTIAL ELECTORS TO VOTE FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES VOTE FOR ONE	FOR STATE SENATOR VOTE FOR ONE	CONSTITUTIONAL AMENDMENTS
☐ For President of the United States JOHN DOE — Democrat	☐ Bill Doe — Republican	.....
☐ For Vice-President of the United States RICHARD ROE	☐ John Roe — Democrat	.....
For Presidential Electors: Jane Doe, Helen Doe, Pete Moe, Milton Moe	☐	☐ For the Amendment
(Same with other candidates for President and Vice-President together with blank space for write-in.)	FOR MEMBER OF THE HOUSE OF REPRESENTATIVES VOTE FOR TWO	☐ Against the Amendment
FOR UNITED STATES SENATOR VOTE FOR ONE		REFERENDUM NO. 1
☐ Frank Roe — Democrat	☐ Allen Doe — Republican	.....
☐ Guy Doe — Republican	☐ Frank Doe — Republican	.....
☐	☐ A. R. Roe — Democrat	.....
		☐ For Referendum No. 1

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Form of ballot.

(Same for Congressmen, Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, State Auditor, Railroad and Public Service Commissioners, State Superintendent of Public Instruction and Clerk of the Supreme Court.)				
FOR CHIEF JUSTICE OF THE SUPREME COURT VOTE FOR ONE				
☐ Richard K. O'Doe (Nominated without party designation)	☐	Ole Roe	Democrat	
☐ Tom Row (Nominated without party designation)	☐	.....		
☐ ..... (Continued in like manner for Associate Justice and Judges of the District Court.)	☐	.....		
(VOTE FOR COUNTY AND TOWNSHIP OFFICERS IN THE NEXT COLUMN.)		(Continued in like manner for all county and township officers.)		
		(VOTE ON INITIATIVES, REFERENDUMS AND CONSTITUTIONAL AMENDMENTS IN THE NEXT COLUMN.)		

☐	Against said Referendum No. 1
INITIATIVE NO. 1	
.....	
.....	
.....	
.....	
☐	For Initiative No. 1.
☐	Against said Initiative No. 1

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and continuing in like manner as to all candidates, constitutional amendments, initiatives, and referendums voted on at such election.

Repealing clause.

Section 3. *That Sections 682 and 812.12 of the Revised Codes of 1935, and Chapter 193 of the Session Laws of 1937, together with* all acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. That this act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1939.

CHAPTER 82

An Act to Amend Section 4139.12 of the Revised Codes of Montana, 1935, Relating to Abstract Books or Indices Required Under Certain Conditions.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4139.12, R. C. 1935, amended.

Section 1. That Section 4139.12 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

No abstract books or indices required under certain conditions.

"Section 4139.12. **No Abstract Books or Indices Required Under Certain Conditions.** Any person, firm or corporation not having the abstract books or indices as required by Section 4139.1, and who, upon the first day of March, 1931, is the holder of a valid and subsisting certificate of authority issued by the state treasurer of the State of Montana, pursuant to Section 4140, of the Revised Codes of 1921, and who shall make application to said board prior to the expiration of such certificate of authority and who shall comply with the other requirements hereof, providing for a registered abstracter, bond and other provisions, shall, upon the payment of five dollars as is herein provided, be issued a certificate of authority under the provisions of this act. Any person, firm or corporation, desiring to engage in the business of making and compiling abstract of title to real property in any county in this State and who is not at the time of making application to said board for a certificate of authority provided with *a completed set of* abstract books

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or indices to the records in the county clerk and recorder's office of such county as required by Section 4139.1, and who can comply with the other requirements hereof providing for a registered abstracter, bond and other provisions, shall, upon submitting satisfactory proof to said board that he has been and on the first day of January, 1939, was the holder of a temporary certificate, issued by said board, and is engaged in good faith in the preparation of such abstract books or indices and that *he intends in good faith to complete the same,* and upon payment of five dollars *shall* be issued a temporary certificate of authority good for a period of one year, *and upon good cause being shown to said board, such certificate shall* be renewed *from year to year until and including the year 1943, upon payment of five dollars for each annual certificate.''*

Renewal of temporary certificate.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1939.

CHAPTER 83

An Act to Amend Sections 1002 and 1003, of the Revised Codes of Montana, 1935, Relating to the Qualifications of the Electors Challenges and Oath of Voters for School Elections and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1002, R. C. 1935, amended.

Section 1. Section 1002 of the Revised Codes of Montana shall be, and the same is hereby amended to read as follows:

Qualifications of electors.

"Section 1002. **Qualifications of Electors:** Every citizen of the United States, twenty-one years old, who has resided in the State of Montana for one year, and thirty days in the school district next preceding the election, *and whose name appears on the tax rolls of the county of which that school district is situate, or whose wife or husband's name appears on the tax rolls of that county, or who is a parent, guardian or person having custody and control of any child then attending school in such district, or who will be eligible to attend such school during the term that the school officers then to be elected shall hold office,* may vote thereat.''

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Section 2. Section 1003 of the Revised Codes of Montana, 1935, shall be, and the same is hereby amended to read as follows: Sec. 1003, R. C. 1935, amended.

"Section 1003. **Challenges and Oath of Voters.** Any person offering to vote may be challenged by any elector of the district, and the judges must thereupon administer to the person challenged an oath and affirmation in substance as follows: 'You do solemnly swear, (or affirm) that you are a citizen of the United States; that you are twenty-one years of age; that you have resided in the State for one year, and in this school district thirty days next preceding this election, *that your name or your wife or husband's name, appears upon the tax rolls of this county for the current year, or that you are the parent, guardian, or person having custody and control of a child now attending this school, or who will be eligible to attend this school during the term that the school officers then to be elected shall hold office*, that you have not voted this day, so help you, God.' Challenges and oaths of voters.

"If he takes this oath or affirmation, his vote must be received, otherwise rejected. Any person who shall swear falsely before any judge of election shall be guilty of perjury, and punished accordingly." Penalty.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 4. This act shall be in full force and effect from and after the date of its passage and approval. Effective date.

Approved March 1, 1939.

CHAPTER 84

An Act to Amend Section 662 of the Revised Codes of Montana, 1935, Relating to the County and City Central Committeemen, How Elected.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 662 of the Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows: Sec. 662, R. C. 1935, amended.

"Section 662. **County and City Central Committeemen, How Elected.** There shall be elected by each political party, subject to the provisions of this law, at said pri- County and city central committeemen, how elected.

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mary nominating election, two committeemen, one of which shall be a man and one of which shall be a woman, for each election precinct, who shall be residents of such precincts. Any elector may be placed in nomination for committeeman of any precinct by a writing so stating, signed by such elector, and filed in the office of the county clerk within the time required in this act for the filing of petitions naming individuals as candidates for nomination at the regular biennial primary election. The

Names of candidates printed on ballot.

names of the various candidates for precinct committeemen of each political party shall be printed on the ticket of the same in the same manner as other candidates and the voter shall express his choice among them in like manner as for such other candidates. The committeemen thus elected shall be the representatives of their political party in and for such precinct in all ward or subdivision committees that may be formed. The committeemen elected in each precinct in each county shall constitute the county central committee of each of said respective political parties. Those committeemen who reside within the limits of any incorporated city or town shall

City central committee.

constitute ex-officio the city central committee of each of said respective political parties and shall have the same power and jurisdiction as to the business of their several parties in such city matters that the county committees have in county matters, save only the power to fill vacancies in said committee, which power is vested in the county central committee. Each committeeman

Term of office.

shall hold such position for the term of two years from the date of the first meeting of said committee immediately following their election. In case of a vacancy happening, on account of death, resignation, removal from the precinct, or otherwise, the remaining members of said county committee may select a committeeman to fill the vacancy and he shall be a resident of the precinct in which the vacancy occurred. Said county and city central

Make rules and regulations.

committees shall have the power to make rules and regulations for the government of their respective political parties in each county and city, not inconsistent with any of the provisions of this law, and to elect two county members of the state central committee, one of which shall be a man and one of which shall be a woman, and the members of the congressional committee, and said committee shall have the same power to fill all vacancies and make rules in their jurisdiction that the county

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committees have to fill county vacancies and to make rules. Said county and city central committee shall have the power to make nomination to fill vacancies occurring among the candidates of their respective parties nominated for city or county offices by the primary nominating election where such vacancy is caused by death, *resignation* or removal from the electoral district, *but not otherwise.* Said committee shall meet and organize by electing a chairman and secretary within thirty days after the candidates of their respective political parties shall have been nominated. They may select managing or executive committees and authorize such sub-committees to exercise any and all powers conferred upon the county, city, state and congressional central committees respectively by this law. The chairman of the county central committee shall call said central committee meeting and not less than fifteen days before the date of said central committee meeting shall publish said call in a newspaper published at the county seat and shall mail a copy of the call, enclosing a blank proxy, to each precinct committeeman. No proxy shall be recognized unless held by an elector of the precinct of the committeeman executing the same."

Committee meetings and organization.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 1, 1939.

CHAPTER 85

An Act to Amend Section 3324 of the Revised Codes of Montana of 1935 as Amended by Section 1 of Chapter 133 of the Session Laws of 1937, Relating to Inspection of Livestock on Removal From County to County.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3324 of the Revised Codes of Montana of 1935 as amended by Section 1 of Chapter 133 of the Session Laws of 1937, be, and the same is hereby amended to read as follows:

Sec. 3324, R. C. 1935, amended.

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Inspection of livestock.

"Section 3324. **Inspection of Livestock.** From and after the passage of this act, it shall be the duty of any and all persons, associations or corporations removing or taking any cow, ox, bull, stag, heifer, steer, calf, horse, mule, mare, colt, foal, or filly from one county to another to cause the same to be inspected at point of loading for brands, by a state stock inspector, and no railroad company, other carrier or person shall accept such livestock for shipment, unless the shipper shall produce a certificate of their inspection for brands as herein required; (provided, however, that the provisions of this act shall not apply to the said stock when driven by the owner from one county to another for the purpose of pasturing, feeding or changing the range thereof, nor to any stock so removed or taken from one county to another by any person, association or corporation, when such stock is used in the ordinary conduct of his or its business, and such person, association or corporation has been the owner of said stock to be removed for at least three months); and, provided further, that whenever any of the class of stock aforementioned shall be loaded for shipment with any railroad company and be consigned to any point where the state board of stock commissioners maintain a stock inspector, and where loading tally is filed as required in Section 3341, then such shipments so consigned, need not be inspected before shipment.

Shipments other than by railroad.

If shipment is made other than by railroad, the person receiving said inspection certificate must retain the same until the animals are sold or delivered, after which it shall be forwarded to the livestock commission with a verified statement attached thereto, showing the name and address of the person, firm or corporation, to whom the animals were sold or delivered."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1939.

CHAPTER 86

An Act to Amend Section 3617, Revised Codes of Montana, 1935, Relating to Infected Orchards, Trees, Shrubs, Plants, or Vines.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3617 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Sec. 3617, R. C. 1935, amended.

"Section 3617. If any person, firm or corporation, or the legal representative of any person, firm or corporation, owning any orchard, tree, shrub, plant *or vines* which is known to be *infected or* infested with any injurious insect pest or disease and which thereby becomes a menace to the agricultural or fruit industry, *or a menace to ornamental trees, shrubs, plants or vines of this State, or any city or county thereof,* shall fail, refuse or neglect to comply with the instructions of the department of agriculture, labor and industry, or its authorized representative, for the eradication or control of such injurious insect pest or disease, or the destruction of said infested *or infected* orchard, tree, shrub, plant *or vines within the time specified by the said department or its authorized representatives,* if in the judgment of said department or its authorized representatives such *treatment* or destruction shall be deemed necessary, *said department or its authorized representative is* empowered to condemn, remove or destroy any such orchard, tree, shrub, *plant or vines or treat such orchard, tree, shrub, plant or vine, with a proper remedy,* and if such owner, or his legal representative shall fail, neglect or refuse to pay the cost of such removal, *treatment,* or destruction of such orchard, tree, shrub, plant, *or vines* within thirty days after due notice has been given by mailing to the owner, *or his legal representative,* at his last known postoffice address, then said cost and expense shall become a lien on the land of the owner and shall be added by the county treasurer to the taxes upon said property and collected as other taxes."

Department of agriculture, labor and industry may condemn infested or infected trees, shrubs, orchards.

Lien upon land for cost and expense.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its approval.

Effective date.

Approved March 1, 1939.

CHAPTER 87

An act to Amend Section 3322.1 of Chapter 136 of the Session Laws of 1937, Relating to the Payment of

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Fees for the Inspection of Cattle Taken From the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3322.1, Laws of 1937, amended.

Section 1. That Section 3322.1 of Chapter 136 of the Session Laws of 1937, be, and the same is hereby amended to read as follows:

Fees for inspection.

"Section 3322.1. **Fees for Inspection.** For the service of inspection herein provided for, the officer making such inspections shall receive twenty-five cents (25c) per head for the inspection of twelve head or less, or three dollars per day for the inspection of more than twelve head, and shall receive in addition thereto, his necessary actual expenses, to be paid by the person for whom the inspection is made, *in the case of cattle or horses shipped to points other than those markets where the Montana livestock commission maintains a stock inspector. For the service of inspection herein provided for at points not within the State where the livestock commission maintains a stock inspector the fee authorized by the Packers and Stock Yards Act, 1921, (U. S. C., Title 7, Sec. 181-229), may be collected by the stock inspector making such inspection. All fees so collected shall be sent by him to the livestock commission for deposit in the state treasury to the credit of the livestock commission fund.*"

Disposition of fees collected.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1939.

CHAPTER 88

An Act to Amend the Following Sections of the Revised Codes of Montana, 1935, Relating to Agricultural Seeds; namely: Section 3564, Relating to Duties of the Department of Agriculture, Labor and Industry; Section 3593, Relating to Definitions of Agricultural Seeds; Section 3594, Relating to Labeling of Agricultural Seeds; Section 3595, Relating to Exemptions; Section

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3596, Relating to Violations and Penalties; Section 3597, Relating to Inspection and Analyses; Section 3598, Relating to Salaries, Expenses and Employment of Agents; Section 3599, Relating to Testing of Samples and Fees; Section 3600, Relating to Certificates, and Repealing Sections 3601 and 3602, Revised Codes of Montana, 1935, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3564, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows: Sec. 3564, R. C. 1935, amended.

"Section 3564. The department of agriculture, labor and industry, through *its authorized agents and representatives,* shall enforce all the laws of Montana now existing or hereafter enacted for the protection and regulation of the farming industry in Montana; it shall also make a special study of the conditions of farm life in Montana and the problems of marketing and distribution of farm products, and shall from time to time make recommendations to the governor concerning needed legislation upon such subjects; it shall enforce the provisions of Sections 3593 to 3602 of this Code, relating to purity of agricultural seeds, and of Sections 3603 to 3607 of this Code, relating to the eradication of the barberry plant, and of Sections 3631 to 3633 of this Code, relating to the control of insect pests and plant diseases, *and for that purpose shall make proper and necessary rules and regulations.*" Duty of department of agriculture, labor and industry.

Section 2. That Section 3593, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows: Sec. 3593, R. C. 1935, amended.

"Section 3593. *Terms as used in this act and not otherwise identified, are hereby defined:* Definitions.

1. *The term "agricultural seeds" or "agricultural seed" shall include the seeds of the legumes, such as alfalfa, clovers, sweet clover, field and canning peas, field beans, vetches, and soy beans; the grasses, such as the blue grasses, timothy, redtop, brome grasses, canary grass, fescues, oat grass, orchard grass, rye grasses, and wheat grasses; the cereals, such as wheat, oats, barley, rye, corn, and hybrid corn; and miscellaneous crops such as rape,* "Agricultural seeds."

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buckwheat, millet, sorghums, mustard, flax; together with seeds of any other crops that may be raised as field crops in Montana, when such are sold, offered, or exposed for sale within this State, country or territory, for seeding purposes within this State.

"Noxious weeds."

2. *The term "noxious weeds" shall mean those plants which are a menace to Montana agriculture and which are especially difficult to control, and shall include: Quack grass, fanweed, wild oats, dodder, Canada thistle, wild mustard, wild morning glory, white top, leafy spurge, perennial sow thistle, Russian knapweed, and blue lettuce.*

"Weed seed."

3. *The term "weed seed" shall mean the term noxious weeds, above listed, and all seeds not listed as agricultural seeds.*

"Approximate percentage."

4. *The terms "approximate percentage" and "approximate number" shall mean the percentage or number with the variations above or below as allowed according to the tolerance limits defined in the "rules for seed testing" adopted by the Association of Official Seed Analysts of North America.*

"Percentage of germination."

5. *The term "percentage of germination" shall mean the percentage of seeds which show normal sprouts as evidence of vitality when such seeds are subjected to the proper moisture and temperature conditions with proper aeration for the customary length of time for each specific kind of such seed, as specified in the "rules for seed testing" adopted by the Association of Official Seed Analysts of North America.*

6. *The term "name of state in which such seed was grown" shall mean any of the several states of the United States or the foreign country.*

"Other crop seeds."

7. *The term "other crop seeds" shall mean any agricultural seeds other than the seed or the mixture of agricultural seeds under consideration.*

"Sell."

8. *The term "sell" shall include "offer for sale", "expose for sale", "have in possession for sale", "exchange", "barter", or "trade". It shall also include agricultural seeds which are furnished to growers for the production of a crop on contract."*

Sec. 3594, R. C. 1935, amended.

Section 3. That Section 3594, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

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"Section 3594. The owner, *vendor,* or person in possession of each and every package, parcel, or lot of agricultural seeds, as defined in the preceding section, which contains one (1) pound, or more, of such agricultural seeds, whether in package or in bulk, shall *before offering such seeds for sale* affix thereto, in a conspicuous place on the exterior of the container of such agricultural seeds, a written or printed label in the English language in legible type or copy, such label containing a statement specifying:

Seeds in bulk to be labelled.

Information to be stated on label.

1. *A lot number or other distinguishing mark;* the commonly accepted name of the kind or kinds of such agricultural seed, together with the variety name, and if such is *not known, the fact must be so stated by using the word "unknown."*

1a. Name of state, country or territory, in which such agricultural seed was grown.

2. The approximate percentage of germination of such agricultural seed, together with the date of test of germination. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately; with the provision that any portion or all of the percentage of such hard seeds may be added to the percentage of germination, and stated as "total life seed."

3. The approximate percentage by weight of purity; meaning the freedom of such agricultural seeds from inert matter and from other seeds distinguishable by their appearance.

4. The approximate percentage by weight of sand, dirt, broken seeds, sticks, chaff, and other inert matter combined in such agricultural seeds.

5. The approximate total percentage by weight of weed seeds.

5a. The approximate percentage by weight of other crop seeds in such agricultural seeds.

6. The name and approximate number per *pound* of each kind of the seeds of the *noxious weeds,* if any such are found in such agricultural seeds in quantities in excess of one in portions of the seed equal to the following: (a) Five (5) grams of small seeds defined as *alfalfa,*

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Information to be stated on label.

clovers, sweet clover, timothy, redtop, blue grass, oats grass, orchard grass, fescues, brome grass, rye grasses, wheat grasses, and all other grasses and clovers not otherwise classified. (b) Twenty-five (25) grams of medium sized seeds defined as millets, rape, flax, and other seeds not specified in (a) or (c) of this Subsection. (c) One hundred (100) grams of wheat, oats, rye, barley, buckwheat, vetches, and other seeds as large or larger than wheat.

7. The full name and address of the seedsman, importer, dealer or agent or of other persons or person, firm or corporation selling, offering, or exposing the said agricultural seed for sale.

8. Mixtures of agricultural seeds which contain two (2) or more kinds of such seeds in excess of five per cent (5%) by weight of each, when sold, offered, or exposed for sale as mixtures, shall have affixed thereto, in a conspicuous place on the exterior of the container of such mixture of seeds, a plainly written or printed tag or label in the English language, stating:

Tag or label.

(a) Name of mixture.

(b) The name and approximate percentage by weight of each kind of agricultural seed present in such mixture in excess of five (5%) per cent by weight of the total mixture.

(bb) Approximate percentage by weight of broken seeds and other inert matter in such mixture of agricultural seeds.

(c) Approximate percentage by weight of weed seeds as defined in Subdivision 3 of Section 3593.

(cc) Approximate percentage by weight of other crop seed in such mixture of agricultural seeds.

(d) The name and approximate number per *pound* of each kind of the seeds or bulblets of the noxious weeds listed in Subdivision 2, of Section 3593, which are present singly or collectively in excess of one seed or bulblet in each fifteen (15) grams of such mixture.

(e) Approximate percentage of germination of each kind of agricultural seed present in such mixture in excess of five per cent (5%) by weight, together with the month and year said seed was tested. In all cases where hard

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seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately; with the provision that any portion or all of such hard seed may be added to the percentage of germination and stated as "total live seed".

(f) Full name and address of the vendor of such mixture.

(g) When space is provided on labels appearing on seed, providing for the insertion of specific items relative thereto and such spaces are left open, the blank space or spaces shall be deemed to imply that the word "none" was intended, when such interpretation is reasonable.

(9) The Montana commissioner of agriculture, labor and industry shall prescribe the form of labels to be used as provided for in Section 3594."

Sec. 3595, R. C. 1935, amended.

Section 4. That Section 3595, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

"Section 3595. *Agricultural seeds or mixtures of same shall be exempt from the provisions of this act:*

Seeds exempt from act, when.

(1) *When possessed, exposed for sale, or sold for food purposes only.*

(2) *When sold to merchants or dealers to be recleaned before being sold or offered for sale for seeding purposes.*

(3) *When in store for the purpose of recleaning or not possessed, sold or offered for sale for seeding purposes within the State.*

(4) *When sold by a processor of sugar beets to growers contracting the growing and delivery of sugar beets to such vendor or distributor."*

Sec. 3596, R. C. 1935, amended.

Section 5. That Section 3596, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

"Section 3596. Any person, firm, or corporation who sells, offers or exposes for sale or distribution in the State any agricultural seeds for seeding purposes, without complying with the requirements of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not *less than twenty-five dollars ($25.00), nor* more

Penalty for violation of act.

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than one hundred dollars ($100.00) and costs of such prosecution, and upon conviction of the second or any subsequent offense shall be fined not *less than fifty dollars ($50.00) nor* more than five hundred dollars ($500.00) and costs of such prosecution."

Sec. 3597, R. C. 1935, amended.

Section 6. That Section 3597, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

Powers and duties of director of grain inspection laboratory and commissioner of agriculture in respect to inspection of seeds.

"Section 3597. The director of the Montana grain inspection laboratory, of the Montana agricultural experiment station, his agent, or agents, shall inspect, examine, or make analyses of and test seeds sold, offered or exposed for sale in the State at such time and place and to such an extent as he and the *commissioner of agriculture* may determine. When said Montana grain inspection laboratory shall find by its examinations, analyses, or test that any person, firm or corporation has violated any of the provisions of this act, it shall give notice of such violations to the vendor or consignee of said lot of seed and at the same time mail a copy of such notice to the person, firm or corporation whose tag or label was found affixed thereto. The commisisoner of agriculture of the State of Montana shall also be notified of such violation. *Such director shall report to the commissioner of agriculture all violations as they appear. He shall also annually and not later than September first, make a report to the commissioner of agriculture of all tests made and the results thereof, which report may be published by the commissioner of agriculture, separately, or along with any other annual or biennial report of the department.* Such director, his agent or agents, *and the commissioner of agriculture and his authorized representatives* shall have free access at all reasonable hours *to all* premises or structures to make examination of any seeds, or any other premises of any warehouse, elevator, or railway company, and upon tendering payment thereof, at the current value, may take any sample or samples of such seeds.

Duty of commissioner of agriculture.

It is hereby made the duty of the commissioner of agriculture of the department of agriculture, labor and industry to administer and enforce this act. For that purpose, he is hereby empowered to make all proper rules and regulations not inconsistent with this act or any federal laws now in effect or which may hereafter be

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enacted. The director of the Montana grain inspection laboratory of the Montana agricultural experiment station shall formulate all necessary and proper rules and regulations relating to all his duties enumerated herein."

Sec. 3598, R. C. 1935, amended.

Section 7. That Section 3598, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

Director of grain inspection laboratory may employ agents.

"Section 3598. The director of the Montana grain inspection laboratory, under the direction of the director of the Montana *agricultural* experiment station, may employ such agents as are deemed necessary *to each year inspect, sample and make analysis of any agricultural seed on sale in the State for seeding purposes within the State,* and the salaries and *necessary* expenses of such agents, *together with the cost of publishing the findings of such inspections and analyses,* shall be paid out of moneys appropriated for the Montana grain inspection laboratory, of the Montana agricultural experiment station."

Sec. 3599, R. C. 1935, amended.

Section 8. That Section 3599 of the Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

Testing of samples of seed for citizens.

"Section 3599. Any citizen of the State of Montana, in accordance with the regulations prescribed by the *commissioner of agriculture,* by prepaying the transportation charges may send, *in one year, five (5)* samples of seed to the Montana grain inspection laboratory of the Montana agricultural experiment station for examination, analyses, or test, *free of charge. Other samples of seed analyzed and tested for purity and germination, or either, shall be charged for at the rate of fifty cents (50c) each, for unmixed seeds. Samples of mixed seeds analyzed and tested shall be charged for at the rate of seventy-five cents (75c) per hour for the actual time required for making analyses and tests, and all such fees are hereby appropriated for the use and purpose of the Montana grain inspection laboratory of the Montana agricultural experiment station to defray the expenses incurred by said laboratory, under the provisions of this act."*

Sec. 3600, R. C. 1935, amended.

Section 9. That Section 3600 of the Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

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Certificate giving results of tests is presumptive evidence of its correctness.

"Section 3600. The certificate of the Montana *grain inspection laboratory of the Montana agricultural experiment station,* giving results of any examinations, analyses or tests of any seed samples made under the authority of *the commissioner of agriculture of the department of agriculture, labor and industry* shall be presumptive evidence of the *correctness of the* facts therein stated."

Repealing clause.

Section 10. All acts and parts of acts in conflict herewith and Sections 3601 and 3602, Revised Codes of Montana, 1935, are hereby repealed.

Effective date.

Section 11. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1939.

CHAPTER 89

An Act to Amend Section 4265.1, Revised Codes of Montana, 1935, Relating to Grades of Apples.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4265.1, R. C. 1935, amended.

Section 1. That Section 4265.1, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

Standard grades of apples.

"Section 4265.1. The standard grades of apples for the state of Montana shall be: 'Extra fancy or first grade', 'fancy or second grade', 'C', 'combination grades', and 'XFFC'.

"Extra fancy or first grade."

(a) 'Extra fancy or first grade', shall consist of apples of one variety which are mature, hand picked, clean, well formed, sound, free from bruises, limbrubs, spray burns, sunburn, russeting, drought spot, hail marks, visible water-core, broken skin, apple scab, stings, and from diseases and insect injury, except that slight blemishes shall be permitted in this grade.

"Fancy or second grade."

(b) 'Fancy or second grade' shall consist of apples of one variety which are mature, hand picked, clean, fairly well formed, sound, free from visible water-core, broken skin, and from damage caused by bruises, limbrub, spray burns, sunburn, russeting, drought spot, hail marks, apple scabs, diseases and insect injury.

"C" grade.

(c) 'C' grade shall consist of apples of *one variety* which are mature, *hand picked, clean,* not *badly misshapen,*

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sound, free from broken skin and from serious damage caused by bruises, limbrub, russeting, drought spot, hail marks, apple scab, diseases and insect injury, and must have *fifteen* per centum *(15%)* of color requirements characteristic of the variety. The word 'choice' must not be used in connection with this grade.

"Cull" apples.

(d) Cull apples shall consist of apples free from infection or disease or serious damage but which do not meet the requirements of extra fancy or first grade, fancy or second grade, or of 'C' grade and shall be marked in block letters not less than one inch in height on both ends of box 'culls'.

"Combination grades."

(e) 'Combination grades'. When 'extra fancy or first grade' and 'fancy or second grade' apples are packed together, the boxes must be marked 'combination extra fancy or first grade and fancy or second grade'. When 'fancy or second grade' and 'C' grades are packed together, the boxes must be marked 'combination fancy or second grade and, 'C'.' Combination grades must contain at least twenty-five per centum (25%) of apples which belong to the higher grade in the combination.

"XFFC" grade.

(f) 'XFFC' grade shall consist of 'extra fancy or first grade', 'fancy or second grade' and 'C' grade apples packed in combination. Boxes so marked must contain at least *twenty* per centum *(20%)* of apples of 'extra fancy or first grade'; *fifty (50%) per centum of 'fancy or second grade';* and not more than *thirty* per centum *(30%)* of 'C' grade. No apples failing to meet the requirements of 'C' grade shall be permitted in this grade.

"Small" apples.

(g) No apples smaller than two and one-fourth (2¼) inches in diameter shall be permitted in any grade.

Small apples which are under size requirements as prescribed may be shipped if marked 'small' in block letters not less than one inch in height on both ends of box, provided such apples are free from insect pests and diseases.

Permissable variation.

(h) In order to provide for variations incident to commercial grading and handling a tolerance of ten per centum (10%) for a total of all defects from the standard of the grade shall be allowed.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1939.

CHAPTER 90

An Act to Amend Section 3626, Revised Codes of Montana, 1935, Relating to the Sale of Infected or Diseased Fruits or Vegetables.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3626, R. C. 1935, amended.

Section 1. That Section 3626, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

Sale of infested or diseased fruit forbidden.

"Section 3626. It shall be unlawful for any person, firm or corporation to import into this State, sell, barter or otherwise dispose of, or offer for sale, or have in his possession for the purpose of sale or barter, any fruit *or vegetable* which is or has been infested with San Jose scale, or the larvae of the coddling moth, or other insect pest *or disease dangerous to agriculture;* and the fact that any fruit *or vegetable* bears the mark of any such insect, or is worm eaten by the larvae of the coddling moth, *or shows the effect of disease,* shall be deemed conclusive evidence that the fruit *or vegetable* is infected within the meaning of this Section, and may be condemned and confiscated by any legal horticultural inspector; provided that nothing in this Section shall be construed to prevent the growers of such infected fruit *or vegetable* from manufacturing the same into a by-product, or selling and shipping the same to a by-product factory, after first having obtained a *written* permit so to do from a horticultural inspector."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1939.

CHAPTER 91

An Act to Amend Section 9631 of the Revised Codes of Montana of 1935, Relating to Summons—How Issued,

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Directed, and What to Contain, and to Amend Section 9664 of the Revised Codes of Montana of 1935, as Amended by Chapter 34 of the Twenty-fifth Legislative Assembly of the State of Montana, 1937, Relating to Judgment When Defendant Fails to Appear, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 9631 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 9631, R. C. 1935, amended.

"9631. **Summons—How Issued, Directed, and What to Contain.** The summons must be directed to the defendant and signed by the justice, and must contain:

Summons, how directed.

1. The title of the court, the name of the county and city or township in which the action is commenced, and the names of the parties thereto;

Contents.

2. A sufficient statement of the cause of action, in general terms, to apprise the defendant of the nature of the claim against him, *but a copy of the complaint in the action when served with the copy of the summons upon defendant in lieu of said statement, is sufficient;*

3. A direction that the defendant appear and answer before the justice, at his office, as specified in the next section. And that if he fail to appear and answer, judgment will be taken against him according to the complaint."

Section 2. That Section 9664 of the Revised Codes of Montana, 1935, as amended by Chapter 34 of the twenty-fifth legislative assembly of the State of Montana, 1937, be, and the same is hereby amended to read as follows:

Sec. 9664, R. C. 1935, amended.

"Section 9664. **Judgment When Defendant Fails to Appear.** If the defendant fails to appear, answer or demur within the time specified in the summons, *then the defendant shall be in default, and his default shall be entered accordingly by the court. Evidence may then be submitted and judgment rendered and entered in accordance with the statement in the summons or as prayed for in the complaint at any time within ninety days from the date of the entry of such default of the defendant.*"

Judgment when defendant fails to appear.

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Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1939.

CHAPTER 92

An Act Authorizing the State Highway Commission to Sell Any Interest Acquired in Real Property for Highway Purposes Which Is not Necessary for the Laying Out, Altering, Construction, Improvement or Maintenance of Any State Highway.

Be it enacted by the Legislative Assembly of the State of Montana:

State highway commission authorized to sell land purchased by highway funds and not needed for highway purposes.

Section 1. The state highway commission of the State of Montana shall have the power to sell any interest in real estate, however acquired, belonging to the State of Montana and purchased by highway funds, and which is not necessary to the laying out, altering, construction, improvement or maintenance of any state highway. If the property sought to be sold is reasonably of a value in excess of one hundred dollars ($100.00), the sale shall be to the highest bidder at public auction or by sealed bids to the discretion of the highway commission, at the office of the state highway commission, highway building in the city of Helena, Montana, after previous notice given by publication in a newspaper published in the county in which said real estate is situated, notice to be published once a week for two successive weeks. The sale shall be for cash, lawful money of the United States. In all sales in property of a value in excess of one hundred dollars ($100.00) there must, before any sale, be an appraisal thereof by the highway commission and at a price representing a fair market value of such property and such appraised value shall be stated in the notice of sale. No sale shall be made of any property unless it has been appraised within three months prior to the date of sale and no such sale shall be made for less than ninety percent of the appraised value. If no bid or offer is made for any property offered for sale after appraisal

Procedure.

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and notice given as provided herein, the highway commission may at any time thereafter sell such property at private sale and may on such private sale accept as the purchase price therefor an amount not less than ninety percent of the appraised value thereof. No title to any property sold under the provision thereof shall pass from the State of Montana until the purchaser shall have paid the full amount of the purchase price therefor into the state treasury to the credit of the state highway fund.

Deed, its execution and contents.

Section 2. The governor, and in case of his absence or inability, the lieutenant governor, shall be, and is hereby authorized to execute deed or patent of conveyance transferring without covenants any and all lands sold by the state highway commission under the laws of this State when full payment has been made therefor. Such deed or patent shall contain the reservation of easements for rights of way to the United States, and all other reservations to which the particular land conveyed may be subject. Such deed or patent shall be attested by the secretary of state, and have the Great Seal of the State of Montana thereto attached, but need not be acknowledged.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect after its passage and approval.

Approved March 1, 1939.

CHAPTER 93

An Act Amending Section 1760.7, Revised Codes of Montana, 1935, by Adding Thereto Additional Provisions Authorizing the Registrar of Motor Vehicles to Enter Into Reciprocal Agreements to Provide That Foreign Registered and Licensed Motor Vehicles, Trailers and Semi-trailers May Be Operated on the Highways of Montana Without the Necessity of Registration or Licensing in the State When Such Privilege Is Extended to, or Reciprocity Allowed, to Motor Vehicles, Trailers or Semi-trailers of This State by the Laws of Such Country, State or Territory; Excluding

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From Such Reciprocal Agreements the Operation of Motor Trucks and Defining the Same.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1760.7, R. C. 1935, amended.

Section 1. That Section 1760.7 of the Revised Codes of the State of Montana be, and the same hereby is, amended to read as follows:

"Section 1760.7. **Foreign Vehicles Used in Gainful Occupation—Registrar of Motor Vehicles May Make Reciprocal Agreements to Exempt.** Before any foreign licensed motor vehicle shall be operated on the highways of this State for compensation or profit, or the owner thereof is using the vehicle while engaged in gainful occupation or business enterprise, in the State of Montana, including highway work, the same shall be registered and licensed in this State in the same manner as is required in the case of domestic owned vehicles of similar character not heretofore registered or licensed, and if the registrar of motor vehicles is satisfied as to the facts stated in the application, he shall register and license such vehicle and assign thereto an appropriate certificate, emblem or device, which shall at all times be displayed upon such vehicle, when operated or driven upon roads and highways of this State, during the period of the life of such license, *providing, however, that the registrar of motor vehicles is authorized and empowered to enter into reciprocal agreements with any country, state or territory exempting from registration and licensing in Montana of the motor vehicle, trailer or semi-trailer of a resident of such country, state or territory when registered and licensed therein, when the laws of such country, state or territory extend the same privilege to, or authorize like reciprocal agreements with respect to motor vehicles, trailers and semi-trailers registered and licensed in the State of Montana and operated by a resident of this State upon the highways of such country, state or territory. Such reciprocal agreements shall not exempt the non-resident operator from obtaining the temporary permit provided in Section 1760.2 nor shall any such agreement exempt any motor truck, registered and licensed under the laws of such country, state or territory, from registration and licensing, as hereinbefore provided. Within the meaning of this act a 'motor truck' is a vehicle designed, used or maintained primarily for the transportation of property, or for the transportation of persons or property for hire.*"

Foreign vehicles used in this state for profit to be registered and licensed.

Proviso, as to reciprocal agreements with other countries or states.

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. That this act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 1, 1939.

CHAPTER 94

An Act to Amend Section 2214.2 of the Revised Codes of Montana, 1935, as Amended by Chapter 132 of the Session Laws of the Twenty-fifth Legislative Session, 1937, Relating to Legalizing and Validating Tax Deed Heretofore Issued Notwithstanding Any Error in the Form, Substance or Amounts Stated in Notice of Application for Tax Deed Unless the Amount Actually Due for Taxes, Interest and Penalty Has Been Tendered to the Holder of the Tax Deed or County Treasurer Before the Approval of This Act and to Validate the Proceedings and Provide for Deeds to Be Issued and Validated Under Tax Deed Proceedings Already Initiated.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2214.2 of the Revised Codes of Montana, 1935, as amended by Chapter 132 of the Session Laws of the twenty-fifth legislative session, 1937, be, and the same is hereby amended to read as follows: Sec. 2214.2, R. C. 1935, amended.

"Section 2214.2. **Validation of Tax Deeds.** That any tax deed heretofore issued in this State shall not be held invalid by reason of any defect in the form, substance or amounts stated to be due in the notice of application for tax deed and all tax deeds heretofore issued are legalized and declared to be valid and legal regardless of any error, defect, omission, irregularity or failure to correctly state the amount due in the notice of application for tax deed, provided that this act shall not apply to any case where, prior to the passage and approval of this act, the owner of land or party entitled to redeem shall pay or tender to the owner or holder of the tax deed or the county treasurer of the county wherein the land described in said tax deed is situated, the amount actually Validation of tax deeds.

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due for taxes, penalty and interest at the time when said money is so tendered; *and further provided that in all cases where the amount of taxes then due has been noticed to the parties interested and published in accordance with the laws then in effect and the taxes remain unpaid, tax deed may be issued under such proceedings already so initiated and when so issued and delivered, such deeds shall be within the intent and purview of this act.*"

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1939.

CHAPTER 95

An Act Providing for the Assignment or Transfer of Liability in Whole or in Part Under Policies Written by a Rural Mutual Insurance Company Organized Under the Provisions of Sections 6170 to 6205 Inclusive of the Revised Codes of Montana of 1935, to Another Company or Companies Organized Under Said Laws.

Be it enacted by the Legislative Assembly of the State of Montana:

Rural mutual insurance companies may assign or transfer liability to other such companies.

Section 1. In addition to the powers now granted by law to rural mutual insurance companies organized under Sections 6170 to 6205 of the Revised Codes of Montana of 1935, said corporation shall have the power to cede and accept insurance from any other rural insurance corporation organized under the above named Sections. It being the intention of this act to permit the assignment or transfer of liability under any insurance policy or policies either in whole or in part written by one or more rural mutual insurance companies to any other rural mutual insurance company organized under the laws of the State of Montana.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

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CHAPTER 96

An Act to Amend Section 5098 and Section 5108.16, Revised Codes of Montana, 1935, Relating to the Police Departments of Cities and Towns and Providing for the Creation of a Police Commission in Cities of the First and Second Class, and Providing a Minimum Wage to Be Paid Police Officers in Cities of the First Class.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5098, R. C. 1935, amended.

Section 1. That Section 5098, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Police commission required in first and second class cities.

"Section 5098. **Police Commission Required in First *and Second* Class Cities—Other Cities and Towns May Provide for Commission by Ordinance.** In cities of the first *and second* class the mayor shall nominate, and with the consent of the city council appoint three residents of such city, who shall have the qualifications required by law to hold a municipal office therein, and who shall constitute a board to be known by the name of 'police commission' who shall hold office for three years, and that one such member must be appointed annually, at the first regular meeting of the city council in May of each year. Provided, that at the first meeting of the council in the month of May after the passage of this act, the mayor, subject to the approval of the council, shall appoint three members of such police commission, one to serve for one year, one for two years and one for three years from the date of their appointment and confirmation.

Compensation.

The compensation of the members of such board shall be fixed by the city council, not to exceed ten dollars per day, nor more than fifty dollars per month for any month for each member in cities of the first *and second* class.

Other cities or towns may provide for a police commission.

The council of any town or city, other than a city of the first *and second* class, may provide by ordinance for such a police commission in any such city or town."

Sec. 5108.16, R. C. 1935, amended.

Section 2. That Section 5108.16, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 5108.16. **Minimum Wage of Police in First Class Cities.** That from and after the passage and ap-

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Minimum wage of police in first class cities.

proval of this act there shall be paid to each member of the police department of cities of the first class of the State of Montana, a minimum wage, for a daily service of eight consecutive hours' work, of at least one hundred sixty ($160.00) dollars per month for the first year of service, and thereafter of at least one hundred sixty ($160.00) dollars per month plus one ($1.00) dollar per month for each additional year of service up to and including the tenth year of such additional service."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1939.

CHAPTER 97

An Act to Amend Section 4880, Revised Codes of Montana, 1935, Relating to Maximum Number of Deputy Treasurers, Assessors, Auditors and County Attorneys.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4880, R. C. 1935, amended.

Section 1. That Section 4880, Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Maximum number of deputy treasurers, assessors, auditors, county attorneys.

"Section 4880. **Maximum Number of Deputy Treasurers, Assessors, Auditors and County Attorneys.** The whole number of deputies allowed the county treasurer must not exceed in counties of the first class, two; *in counties of all other classes, one;* provided, that the board of county commissioners may allow such *additional* deputies as may be necessary during the months of November and December of each year. In counties of the first, second and third classes, assessors may be allowed one deputy, and during the months of March, April, May, June, July and August, not to exceed two additional deputies at a salary not exceeding one hundred dollars per month; in counties of all other classes assessors may be allowed one deputy during the months of March, April, May, June and July, at a salary not exceeding one hundred dollars per

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month. The whole number of deputies allowed to county auditors in counties of the first, second and third classes must not exceed one. The whole number of deputies allowed the county attorney in counties of the first and second classes must not exceed one chief deputy, and one deputy; and in all other counties such deputies as may be allowed by the board of county commissioners, not to exceed one chief deputy and one deputy."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 27, 1939.

CHAPTER 98

An Act Amending Sections 6479, 6484, 6489, 6490, 6491, 6494, 6495, 6499, 6500, 6501 and 6502, of the Revised Codes of Montana of 1935, Relating to the Formation of Cemetery Associations; Providing for the Keeping of Records in Connection Therewith, the Upkeep of Such Cemetery, and Providing a Means for the Creation of a Fund Out of Which Permanent Care for Lots Within the Cemetery May Be Had, and for the Selection of a Trustee or Board of Trustees for the Handling of Such Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6479 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended as follows: Sec. 6479, R. C. 1935, amended.

"Section 6479. **May Take Land by Purchase or Gift —Use of Personal Property Gifts.** Any association incorporated agreeably to the provisions of this act may take by purchase or gift, and hold, within the county in which the certificate of their incorporation is recorded, not exceeding one hundred and sixty (160) acres of land, to be held and occupied exclusively for a cemetery for the burial of the dead, and for purposes necessary or proper thereto; such land, or such portion thereof as may from time to time be required for that purpose, shall be surveyed and divided into lots of such size as the trustees May take land by purchase or gift.

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may direct, with such avenues, alleys and walks as the said trustees deem proper; and a map of such survey shall be filed and recorded in the office of the county clerk and recorder of the county in which the lands lie, without any fees therefor. Such association may also take by gift and hold personal property, and may sell the same and apply the proceeds thereof to the care, maintenance and embellishment of said cemetery, but for no other purpose, and all real and personal estate which shall have been given or granted to any such association for the maintenance of any monument, the keeping in good order, or the embellishment of any lot or ground situated within the inclosure of such an association, shall remain forever to the uses for which the same shall have been given or granted, according to the true intent of the grantor. *Any city or town in or near which a cemetery is maintained under the provisions of this act may furnish water to be used within such cemetery and for its maintenance and beautification free of charge to such cemetery association if such city or town shall so elect.*"

Taking and selling personal property.

City may furnish water.

Sec. 6484, R. C. 1935, amended.

Section 2. That Section 6484 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended as follows:

Annual report of trustees.

"Section 6484. **Annual Report.** The trustees at each annual meeting shall make a report, in writing, *which report shall be signed by at least a majority of the members of such board,* and shall contain a statement of their doings and of the affairs of the association, and an account of the receipts and disbursements during the year preceding. *Such report must be duly verified and filed in the office of the clerk of the district court. Such reports shall be noticed for hearing and heard in the same manner as reports of administrators in estates of deceased persons.*

Duty of county attorney.

"It is hereby made the duty of the county attorney of the county in which cemetery is situated to act, without charge, as the legal advisor of all officers of a cemetery association and to prepare and present any and all reports required to be made by such officers."

Sec. 6489, R. C. 1935, amended.

Section 3. That Section 6489 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended as follows:

"Section 6489. **Trustee or Trustees of Funds to Be Appointed by District Court.** Whenever moneys to the

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amount of one hundred dollars ($100.00) shall have been received by such corporation, or association, heretofore or hereafter formed, such a fund, either from the sale of lots or from direct payments of such corporation or association toward such a fund by lot owners, or otherwise, the trustees of such association shall immediately make application to the judge of the district court for the judicial district in which the cemetery for which such trust fund exists for the appointment of a trustee or of a board of trustees of such fund and the judge of such court shall thereupon appoint a trustee or a board of trustees from a list submitted to him by the trustees of such association. *Such trustee or such board shall consist of not less than one (1) nor more than five (5) persons, the exact* number to rest in the discretion of the said trustees of said association. Such trustee or the members of such board of trustees of such funds must be citizens and freeholders of the State of Montana during all the time they exercise the powers of such trust. Upon the election, appointment, and qualification, as hereinafter provided, of the said trustees of such fund, all of the title to the funds included in said trust, and all of the rights, powers, authorities, franchises, and trusts of whatsoever thereunto appertaining, shall at once vest in him or them; or, in case of the failure of any of those so chosen and appointed, to qualify within thirty (30) days after their appointment, then the same shall vest in the one or more who shall qualify. In case of the failure of any of those so chosen and appointed so to qualify within such time, then a vacancy shall exist and the judge of said district court shall forthwith appoint from a list submitted to him by the trustees of such association some person possessing the above qualifications to fill vacancy or vacancies in said board of trustees of such fund; provided, however, that trustees of such fund, heretofore appointed by such cemetery associations, or district courts, shall continue to hold their office as such trustees until terminated in one of the manners in this act provided.

Trustee or trustees of funds to be appointed by district court.

Title to funds, etc., vested in trustee or trustees.

"The board of trustees shall also have the power and authority to nominate any bank which is authorized to act as a trust company in Montana under state or federal law, to be trustee of such trust fund. And in that event the district court shall make appointment of such nominee which shall serve in such capacity without bond, but shall

Trust company as trustee.

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be required to make all reports and discharge all the duties and obligations required of individual trustees."

Sec. 6490, R. C. 1935, amended.

Section 4. That Section 6490 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended as follows:

Tenure of office of trustees.

"Section 6490. **Tenure of Office of Trustees.** The tenure of office of the trustee or trustees of such fund shall be for the *term of three (3) years,* unless they permanently remove from the State of Montana, or are removed from office by the judge of said district court for good cause shown or their tenure is otherwise terminated as in this act provided."

Sec. 6491, R. C. 1935, amended.

Section 5. That Section 6491 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended as follows:

"Section 6491. **Bond of Trustee or Trustees.** Before exercising, or having any of the powers, duties, rights, titles, authorities, or franchises appertaining to such trust or to such trusteeship, each person chosen to be a trustee of such fund shall give to the cemetery association for which the trust is maintained, a bond in a *sum equalling at least one and one-third (1-1/3) times the value of the property on hand at the time of giving such bond,* with good and sufficient sureties thereto, who shall justify in the aggregate at least double the amount of such bond, the same to be conditioned for the due and faithful performance of his trust until July first of the next even-numbered year after the year in which such bond shall be given, and until such trustee shall give a new bond as hereinafter provided. Upon the first day of July in each even-numbered year, each trustee shall give a new bond conditioned in the same way, the amount thereof to be determined by the same rule, and with sureties as above provided. Such bonds shall all be approved by a judge of the district court for the judicial district in which the cemetery for such trust exists, or some part thereof shall be situated, *and shall be filed with the clerk of the district court of the county in which such cemetery is located.* Any failure so to renew bonds within thirty (30) days after the time hereinbefore provided shall be a sufficient ground for removal of any trustee within the discretion of the district court."

Bond of trustee or trustees.

Approval of bond.

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Section 6. That Section 6494 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended as follows:

Sec. 6494, R. C. 1935, amended.

"Section 6494. **Title to Funds Vest in Court Until Appointment of Trustees—Application by Persons Other Than Trustees of Association—Accounting.** In the case of the failure of the trustees of such an association to make application to the judge of said district court for the appointment of a board of trustees of such fund, as provided in Section 6489, or in the case of the death, removal, resignation, or disability of all of the members of such board, the said rights, titles, interests, authorities, powers, franchises and trusts, until the appointment and qualification of a new board of trustees of such fund shall vest in the district court of the county in which such cemetery, or the greater part thereof, shall be situated. In such cases such trustee or such board of trustees of such fund shall be appointed by the district court of said county upon application of any person interested and upon notice of other persons interested, as the judge of said court may order. The trustee or trustees appointed by the judge of said court under the provisions of this Section, shall have the same rights, powers, authorities, and franchises as the trustee or trustees appointed under any other Sections of this act. *Such trustee or such board of trustees must annually, or oftener if so required by order of such court, file in the office of the clerk of the district court of the county where such cemetery is situated, a duly verified account showing a detailed statement of all moneys collected, of all securities on hand, together with all moneys disbursed during the preceding year. Any interested party may apply to the district court for an order requiring such trustee or such board of trustees to make such an accounting at any time.* Any owner of an interest in any lot in the cemetery cared for by such trust, any trustee of the cemetery association, and any trustee of the said trust fund, shall have the right to make any application to the court provided for in this chapter."

Title to funds vest in district court until trustees are appointed.

Trustees to file annual account.

Section 7. That Section 6495 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended as follows:

Sec. 6495, R. C. 1935, amended.

"Section 6495. **Recording Appointments of Trustee or Trustees.** All instruments of appointment of a trustee or of a board of trustees of such funds shall be recorded with

Recording and filing appointment of trustees.

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the secretary of the association establishing the fund and shall *also be filed in the office of the clerk of the district court in the county in which such association is located.*"

Sec. 6499, R. C. 1935, amended.

Section 8. That Section 6499 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended as follows:

Investment of fund.

"Section 6499. **Investment of Fund.** The principal of such fund may be invested in the way in which trust funds are permitted to be invested in the State of Montana and not otherwise; *provided that each investment made by the trustee or by the board of trustees shall be subject to the approval of the board of trustees of the cemetery association and also by the district judge of the county in which the cemetery is situated.*"

Sec. 6500, R. C. 1935, amended.

Section 9. That Section 6500 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended as follows:

Compensation of trustees.

"Section 6500. **Compensation of Trustees.** The trustee or the members of the board of trustees of such permanent care and improvement fund shall receive such *compensation as may be agreed upon between such trustee or between such board of trustees of such permanent care and improvement fund on the one hand and the board of trustees of the cemetary association on the order, provided that the total compensation of such trustee or of the entire board of trustees shall in no case exceed the sum of one hundred dollars ($100.00) per annum.* The fees of such trustee or of the members of the board of trustees shall be paid out of the general fund of the cemetery association until such trust fund shall reach *ten thousand dollars ($10,000.00)* and thereafter the same shall be paid out of the income of such fund."

Sec. 6501, R. C. 1935, amended.

Section 10. That Section 6501 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended as follows:

Secretary.

"Section 6501. **Secretary of Board.** The secretary of the cemetery association shall act as secretary *of such trustee or as secretary of such board of trustees of such* fund and shall keep a full record of their proceedings."

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Section 11. That Section 6502 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended as follows: Sec. 6502, R. C. 1935, amended.

"Section 6502. **Annual Report.** The trustee or the board of trustees of such fund shall annually, on the first day of January, make their report of the condition of such trust fund to the trustees of the cemetery association, *and also to the district court as hereinbefore provided.* Such reports shall always be kept by the secretary of such association, and by the clerk of *the district court,* and be open to the inspection of any person owning an interest in any lot in the cemetery cared for by such fund." Annual report.

Section 12. All acts or parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 13. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 3, 1939.

CHAPTER 99

An Act to Amend Section 1996 of the Revised Codes of Montana, 1935, Relating to the Definition of Terms Employed in the Code in Dealing With the Subject of Taxation.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1996 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 1996, R. C. 1935, amended.

"Section 1996. **Definition of Terms.** Whenever the terms mentioned in this Section are employed in dealing with the subject of taxation, they are employed in the sense hereafter affixed to them. Definitions.

First—The term 'property' includes moneys, credits, bonds, stocks, franchises, and all other matters and things real, personal, and mixed, capable of private ownership; but this must not be construed so as to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by such stocks is within the state and has been taxed. "Property."

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"Real estate." Second—The term 'real estate' includes:

1. The possession of, claim to, ownership of, or right to the possession of land.

2. All mines, minerals, and quarries in and under the land, subject to the provisions of Section 2088 of this Code, all timber belonging to individuals or corporations growing or being on the lands of the United States, and all right and privileges appertaining thereto.

3. Improvements.

"Improvements." Third—The term 'improvements' includes all buildings, structures, fixtures, fences, and improvements erected upon or affixed to the land, whether title has been acquired to said land or not.

"Personal property." Fourth—The term 'personal property' includes everything which is the subject of ownership, not included within the meaning of the term 'real estate' and 'improvements'.

"Value", "full cash value." Fifth—The terms 'value' and 'full cash value' mean the amount at which the property would be taken in payment of a just debt due from a solvent debtor.

"Credit." Sixth—The term 'credit' means those solvent debts, secured or unsecured, owing to a person."

Repealing clause. Section 2. All acts or parts of act in conflict herewith are hereby repealed.

Effective date. Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 100

An Act to Amend Section 2001.1 of the Revised Codes of Montana, 1935, Relating to the Determination of the Percentage Basis and Taxable Value of the Various Classes of Property for Taxation by the Assessors of the State of Montana and to Repeal Section 2001.4 of the Revised Codes of Montana, 1935, Relating to the Application of Percentage Basis and the Duty of the County Clerk and Recorder With Respect Thereto.

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Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2001.1, R. C. 1935, amended.

Section 1. That Section 2001.1 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Assessors required to determine percentage basis and taxable value, when.

"Section 2001.1. The percentage basis of true and full value as provided for in Section 2000, shall be determined and assigned by the county assessors of the various counties of the State of Montana, *and the taxable value thereupon computed* when they make their annual assessments, and copies of such assessments as provided for in Section 2005 shall show the taxpayer the percentage class to which the assessor has assigned his various classes of property for taxation *and the taxable valuation thereof.*"

Repealing clause.

Section 2. That Section 2001.4 of the Revised Codes of Montana, 1935, be, and the same is hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 101

An Act to Amend Section 12288 of the Revised Codes of the State of Montana, 1935, as Amended by Chapter 117, Laws of Montana, 1937, Relating to the Appointment, Salary and Duties of Probation Officers, to Juvenile Delinquents and to Court Procedure.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 12288, R. C. 1935, amended.

Section 1. That Section 12288 of the Revised Codes of Montana, 1935, as amended by Chapter 117, Laws of Montana, 1937, be, and the same is hereby amended to read as follows:

Probation officer.

"Section 12288. **Probation Officers — Appointment, Salary, and Duties—Procedure on Criminal Complaints Against Minors—Commitment.** In every judicial district of the State of Montana the judge thereof having jurisdiction of juvenile matters may appoint one discreet person of good moral character, who shall be known as the chief probation officer of such district and who shall

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hold his office during the pleasure of the court. Such officer shall receive for his services such sum as shall be specified by the court upon appointment, not exceeding the sum of one thousand eight hundred dollars per annum, to be paid, however, upon a per diem basis for the time actually and necessarily employed in performing the duties of the office. Provided, however, that in counties having a population in excess of *30,000* the district judge having jurisdiction of juvenile matters therein may appoint one chief probation officer for such county, who shall receive for his or her services such sum as shall be specified by the court upon appointment, not exceeding the sum of two hundred dollars per month. The salary of such officer shall be apportioned among and paid by each of said counties in which said officer is appointed to act in proportion to the assessed valuation of such counties for the year then current to be paid out of the contingent fund of the county; except that where such official is appointed for one county his salary shall be paid by that county. In the absence of the appointment of such chief probation officer, it shall be the duty of the sheriff of the respective county or counties comprising such judicial district to perform all the duties of the chief probation officer in this Chapter enumerated without additional compensation. Said probation officer shall also be reimbursed for the actual and reasonable traveling and other expenses incurred by him in pursuance of his official duties. Such reimbursement shall be made once each month by the county or several counties for which such probation officer shall have been appointed. Each probation officer shall, not later than the tenth day of every calendar month, and before the allowance and payment thereof, file or cause to be filed with the proper board of county commissioners of the county chargeable therewith, an itemized sworn statement and account of such expenses, including his claim for salary for the preceding month with the approval of the district judge or judges endorsed thereon. Each county of this State shall reimburse such probation officer only in respect to such expenses as have been incurred in connection with juvenile persons residing in that county.

Salary.

Proviso: population over 30,000

Sheriff to serve, when.

Reimbursement.

Claim for salary and expenses.

"The district judge having jurisdiction of juvenile matters may also appoint, in counties having a population

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of more than *30,000*, one additional person to serve as deputy probation officer who shall receive not to exceed one hundred fifty dollars ($150.00) per month and reimbursement for the actual and reasonable traveling and other expenses incurred by him in the pursuance of his official duties and to serve at the will of the court and be paid by the county for which he is appointed out of the same fund herebefore set forth. The judge having jurisdiction may appoint as probation officers such other discreet persons of good moral character as are willing to serve without compensation. It shall be the duty of the clerk of the district court, immediately upon the appointment of a probation officer, to notify the courts and magistrates of any county in which the said officer is appointed, giving them the names and postoffice addresses of such officers. The duties of said probation officer or officers shall be such as hereinafter prescribed.

Deputy probation officer, in certain counties.

"Whenever a complaint is made or pending against a boy or girl under eighteen years of age for the commission of any offense not punishable by law with life imprisonment, or for which the penalty is death, before any court or magistrate, it shall be the duty of such court or magistrate at once and before any other proceedings are had in the cause, to give notice in writing of the pendency of said cause to the probation office of his county. Such probation officer shall immediately, or as soon thereafter as possible, proceed to inquire into and make a full examination and investigation of the facts and circumstances surrounding the commission of the alleged offense, the parentage and surroundings of said child, its exact age, habits, and school record, and everything that will throw light on its life and character, and may also inquire into the home conditions, habits, and character of the parents or guardians, and shall make a full report thereon in writing to the judge of the district court having charge of such cases, before said cause is tried. If, upon consultation with the probation officer and the examination of such report, it shall appear to the judge of said court that the child is not guilty of the offense charged against it, or that the interest of the child shall be best subserved thereby, the court shall order that such child be not brought into court, and said cause shall be dismissed. Said chief probation officer shall attend all hearings under this act

Duties.

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and represent the interests of the child and shall take charge of any child before or after trial, as the judge may direct. Probation officers shall serve warrants and other process of the court, issued because of violation of this act or issued for the enforcement of this provision of this act, within or without the county, and in that respect they are hereby clothed with the powers and authority of sheriffs; they can make arrests without warrant upon view of the violation of any of the provisions of this act, and detain the person so arrested pending the issuance of a warrant; and perform such other duties incident to their offices as the judge may direct; and all sheriffs, deputy sheriffs, constables, marshals, and police officers are required to render assistance to probation officers in the performance of their duties when requested to do so.

Court may withhold judgment in case of a child found guilty of criminal offense.

"If upon the trial of any child the court shall find that such child is guilty of the offense charged, he may withhold judgment for a definite or indefinite period if it appears that the public and the interest of the child will be best subserved thereby, and may order that such child be returned to the care of his or her parents, guardian, or friends; or he may commit such child to the care of a volunteer probation officer, who shall exercise supervision over it until such time as it is discharged by the court from supervision upon the recommendation of such voluntary probation officer, and if the parents, parent, guardian, or custodian consent thereto, or if the court shall further find either that the parent, parents, guardian, or custodian are unfit or improper guardian, or are unable or unwilling to care for, protect, educate, or discipline such child, and shall further find that it is for the best interest of such child and for the people of this State that such child be taken from the custody of its parents, custodians, or guardian, the court may order such child to be placed in the family of some suitable person where such family home shall be recommended by the probation officer of the court after consultation with those representing the interest of the child, there to remain until he or she shall have attained the age of twenty-one years or for any less time, or the court may order such child to be placed in the home where the county's dependent children are kept; or, if it appears to be for the best interest of the child and such child appears to be in need of institutional training, the court

Custody of such child.

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may order him or her to be committed to some state institution or some institution of learning managed by a corporation or individual, and devoted to the care of such children, for a definite or indefinite period; such institution to be situated in the State of Montana, and to be inspected at least once a year and approved by the bureau of child and animal protection and to receive for its services a per diem of thirty-five cents for each day that such child shall be in the custody, such per diem to be paid by the county sending the child, upon itemized vouchers duly certified to by the court; or the court may impose a fine with costs, or the court may for good cause shown suspend judgment in any case for a definite or indefinite period; or, if the offense be a malicious trespass, the court may require the damage to be made good, or if the offense be petty larceny and the stolen property is not recovered, the court may require it to be paid by the delinquent child himself if it be shown that he or she is capable of earning the money or has any money of his or her own, or its parents or guardian, at the discretion of the court; and in all the foregoing cases, where the parents or guardian are unfit to have the custody of said child, or unable to control said child, the court may deem the child to be the ward of the court, as far as its person is concerned; and in all cases where any child has been decreed to be the ward of the court, the authority of the court over its person shall continue until the court shall otherwise decree, and the court may adopt all rules and regulations that may be needed to carry out the provisions of this act. In every case in which the court shall commit any child to the care and custody of any other institution as above provided, other than a state institution, and such child shall have a parent or guardian within the county, the court may make and enter an order requiring such parent or guardian to appear before said court upon a day and hour to be named by the court therein, and show cause, if any she or he have, why she or he should not pay for the support of such child, in whole or in part, while it is an inmate of such institution. A certified copy of said order shall be served upon such parent or guardian by the chief probation officer of the county not less than ten days prior to the day fixed therein for such appearance. Upon due service and return of said order, the court shall, upon the day fixed, or upon such subsequent day

Commitment of child, where.

Fines and penalties.

Child to be ward of court, when.

Certified copy of order served, upon whom.

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as may be fixed by the court, hear evidence as to the financial ability of such parent or guardian, and in case the court shall find that such parent or guardian should pay for or contribute to the support and maintenance of such child, the court shall render judgment against such parent or guardian that that parent or guardian shall pay to the chief probation officer such sums as the court shall adjudge and at such times and in such amounts as shall be by the court found just. And such judgment shall be enforced as other judgments are enforced, and all moneys collected on such judgments shall be held by the chief probation officer and shall be remitted quarterly by him to the institution keeping such child or children and the amount so remitted shall be deducted from the quarterly bill of such institution.

Quarterly report by chief probation officer.

"Provided, that the chief probation officer shall make a verified report to the court at the close of each quarter, of the amount of money so collected on such judgments, which report the judge shall cause to be filed with the county commissioners with the bill rendered by the institution keeping such child. If any child is wayward and unmanageable the court may commit him or her to the industrial school, or to any other state penal or reformatory institution authorized by law to receive such boy or girl subject to such conditions as are already provided by law for the reception of such children in said schools or institutions. And in cases where a child shall be committed to a state or other institution as above provided, the report of the probation officer shall be attached to the commitment and the child shall be placed in charge of the probation officer, or some person designated by the court to be conveyed under his direction to the designated institution; provided, that a woman shall always be sent with the girls so committed, and the person taking such child to the designated institution shall be allowed and paid his or her actual expenses and no more, where he or she is a paid officer of such court. appointed by the court, and in all other cases the person taking such child to any institution shall be allowed and paid for his or her services, the same fees and expenses as are paid to sheriffs in like cases.

Proviso.

"And provided, that the court may when the health or condition of the child require it, cause the child to be placed in a public hospital or institution for treatment

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for special care, or in a private hospital or institution which will receive it for like purposes without charge or for the per diem of thirty-five cents a day.

Child not to be confined with adult convicts.

"Provided, that when a child contemplated by this act shall be sentenced to confinement in any institution to which adult convicts are sentenced, it shall be unlawful to confine such child in any room, yard or enclosure with such adult convicts, or to allow them in any manner to come in contact with them, or in any way commingle with such adult convicts, or to bring such child into any yard or room in which adult convicts may be present.

Immediate hearing and trial, when.

"Provided, that if any such boy or girl against whom a petition is filed is unable to give bond, and the court does not release him or her on his or her own recognizance, then such boy or girl shall be entitled to an immediate hearing and trial, according to law.

"Providing that the commitment of any child to an institution or association or society shall be subject to the rules and laws that may be in force from time to time governing such institution, association, or society.

Child may be returned to home, when.

"Provided, that when it shall be made to appear to the court that the home of the child or its parents, former guardian or custodian, is a suitable place for such child, and that such child be permitted to remain or ordered to be returned to said home, consistent with the public good and the good of such child, the court may enter an order to that effect, returning such child to his home under probation, parole, or otherwise; it being the intention of this act that no child should be taken away or kept out of his home or away from his parents or guardian any longer than is reasonably necessary to preserve the welfare of the child and the interest of all this State; provided, however, that no such order shall be entered without giving ten days' notice to the person, institution, or association to whose care such child has been committed, unless such guardian, institution, or association to whose care such child has been committed consents to such order.

Court may require report by person or institution having the care of delinquent child.

"And provided, the court may from time to time cite into court the person, institution, association, or society in whose care any delinquent child has been awarded, and require him or it to make a full, true, and perfect report

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as to his or its doings in behalf of such child; and it shall be the duty of such person, institution, or association, within ten days after such citation, to make such report, either in writing, verified by affidavit, or verbally, under oath, in open court or otherwise, as the court shall direct; and upon the hearing of such report, with or without further evidence, the court may, if it sees fit, take such child from said person, institution, association, or society, and place it with another, or restore such child to the custody of its parents or former guardian or custodian."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 102

An Act to Amend Section 191.2, Revised Codes of Montana, 1935, as Amended by Chapter 55, Laws of 1937, Relating to the Apportionment of Funds Received From the Federal Government Under Provision of the Taylor Grazing Act, and Expenditure Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 191.2, R. C. 1935, amended.

Section 1. That Section 191.2, Revised Codes of Montana, 1935, as amended by Chapter 55, Laws of 1937, be, and the same hereby is amended to read as follows:

"Section 191.2. **Apportionment of Money to Counties and Expenditure Thereof.**

Apportionment of money to counties and expenditure thereof.

"(1) It shall be the duty of the state treasurer to properly apportion and allocate all moneys received from the treasurer of the United States as provided for in Section ten (10) of the Taylor Grazing Act approved June 28, 1934, and as amended June 26, 1936, to the county treasurers, *and to furnish to each county treasurer together with the warrant to said county, a statement showing what portion of the moneys evidenced by said warrant was earned under the provisions of Section three*

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(3) of said Taylor Grazing Act (by grazing districts) and/or what portion of said moneys was earned under Section fifteen (15) of said Taylor Grazing Act (leases of isolated tracts).

Duties of county treasurers.

"(2) It shall be the duty of the county treasurers to allocate the funds received under the provisions of Section ten (10) of the Taylor Grazing Act as follows:

a. The moneys earned under Section three (3) thereof (by grazing districts) to a fund to be designated as a special grazing fund, which fund shall be paid on warrants of authority issued by the district advisory board of the Taylor Grazing Act when signed by the chairman and secretary of said district advisory board.

Money expended, for what.

The funds comprising said special grazing fund shall be expended only for range improvements such as fences, reservoirs, wells, and for such other range improvements as the district advisory board may approve. Before any improvements herein provided for can be made, or any money expended, such improvements shall be approved by the district advisory board and a record of approval of such improvements shall be spread upon the minute records of the board, and

b. Of the moneys earned under Section fifteen (15) thereof (by leases of isolated tracts).

"1. If said county or any portion thereof is embraced within a grazing district created under the provisions of the Taylor Grazing Act;

Apportionment of money earned.

a. Fifty per cent. (50%) thereof to the special grazing fund and to be expended in the same manner as hereinbefore provided for moneys earned under Section three (3) of the said Taylor Grazing Act, and

b. Fifty per cent. (50%) thereof to the common school fund of said county.

"2. If said county, in whole or in part is not embraced within such a grazing district;

a. Fifty per cent. (50%) thereof to the general fund of said county, and

b. Fifty per cent. (50%) thereof to the common school fund of said county."

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Section 2. This act shall be in full force and effect from and after its passage and approval and its provisions shall apply to all funds now in the hands of county treasurers or hereafter to be received by county treasurers under, and by virtue of, the provisions of the Taylor Grazing Act.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1939.

CHAPTER 103

An Act Creating a Commission to Be Known as the State Insurance Commission, Composed of the State Auditor-ex Officio Commissioner of Insurance, State Accountant and Chairman of the State Board of Equalization, All Serving Without Additional Compensation, and Prescribing the Duties of Said Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

State insurance commission created.

Section 1. There is hereby created a commission to be known as "the state insurance commission," which said commission shall be composed of the state auditor-ex officio commissioner of insurance, acting as chairman of said commission, state accountant and the chairman of the state board of equalization, all of whom shall perform the duties of the said commission without additional compensation or remuneration. The said commission shall convene at such time and place as may be designated in a notice of meeting served upon the members thereof by the chairman of said commission, which said notice shall be served not less than twenty-four hours before the date of said meeting. Two members of said commission shall constitute a quorum, and a majority vote of all members present shall authenticate any action taken by said commission.

Powers and duties of commission.

Section 2. The state insurance commission shall have the sole and exclusive power and authority, and it shall be its duty to examine and approve, by resolution recorded in its official minute book, all fire and casualty contracts or policies of insurance entered into by and between the State of Montana, by or through any of its officers.

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boards and commissions, and any private insurance carrier; and the said commission shall have power, and it shall be its duty to make a study of the insurance needs of the State of Montana and assemble statistics and data and make such recommendations to the various officers, boards and commissions of the State of Montana as to the elements of physical hazards existing in all state property under the jurisdiction of said officers, boards and commissions as will tend to reduce fire and casualty hazards and do all things necessary toward securing just, fair and equitable insurance coverage on all risks owned or insured by the State of Montana.

Policies of insurance covering state-owned property shall be subject to approval by commission.

Section 3. All contracts or policies of insurance covering state-owned properties or state risks shall be filed with the said state insurance commission, and no such contract or policy of insurance shall be valid until the same shall have first been filed with the said state insurance commission and shall have been examined and approved as herein provided, and no moneys shall be paid out of the state treasury to any person, firm or corporation, as a consideration or premium on any policy or contract of insurance, until said policy or contract of insurance has been examined and approved by the said state insurance commission.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 5. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 3, 1939.

CHAPTER 104

An Act Relating to the Right to Inherit of Persons not Citizens of the United States and Residing in Foreign Countries; Providing for the Disposition of Money and Property Which But for the Provisions of This Act Would Have Been Transferred to Certain of Such Persons; Prescribing the Duties of Executors, Administrators and Certain County Officers in Regard Thereto; and Repealing All Acts and Parts of Acts in Conflict Therewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

"Person" defined.

Section 1. "Person" as used in this act shall mean a corporation, association, copartnership, or any other legal entity, as well as a natural person, and the singular thereof shall include the plural.

Aliens residing in foreign country, right of inheritance by.

Section 2. No person shall receive money or property, save and except mining property, as provided in Section twenty-five, Article III, of the Constitution of the State of Montana, as an heir, devisee and/or legatee of a deceased person leaving an estate or portion thereof in the State of Montana, if such heir, devisee and/or legatee, at the time of the death of said deceased person, is not a citizen of the United States and is a resident of a foreign country at the time of the death of said intestate or testator, unless, reciprocally, the foreign country in question would permit the transfer to an heir, devisee and/or legatee residing in the United States, of property left by a deceased person in said foreign country.

Duty of executor or administrator.

Section 3. In any estate where money or property would have vested in any person but for the provisions of Section one (1) of this act, it shall be the duty of the executor or administrator thereof to set forth the name and residence of such person in his petition for letters and to do likewise in his petition for distribution, in which, also, he shall designate and describe the amount of money and/or property which, but for the provisions of this act, would have passed to said heir, legatee or devisee. Upon the final settlement of said estate upon order of the court it shall be the duty of said executor or administrator to deliver all money and/or property affected by such order of court to the county wherein it is situated, in the case of real property by delivering a certified copy of said order to the clerk and recorder of such county, whose duty it shall be to record the same and, in the case of money and/or other personal property, by delivering the same to the treasurer of said county. All property not theretofore converted into cash shall be sold by the county in the same manner as is property sold for taxes, provided that, in the case of real property the deed of said county shall make reference to the book and page of county records wherein is recorded said order of court transferring said real property to said county.

Property and money which but for this act would pass to alien residing in foreign country to go to county.

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Section 4. All money, including all money realized from the sale or sales of property delivered to the county by an executor or administrator under the provisions of this act, immediately upon its receipt by the county treasurer, shall be placed in the county general fund. Money to be placed in county general fund.

Section 5. If any clause, sentence, paragraph, section or any part of this act shall be declared and adjudged to be invalid and/or unconstitutional, such invalidity or unconstitutionality shall not affect, impair, invalidate or nullify the remainder of this act. Severability of act.

Section 6. This act shall be in full force and effect from and after its passage and approval and the provisions thereof shall apply to all estates now in the process of probate but not heretofore distributed by order of court. Effective date. Estates affected.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 3, 1939.

CHAPTER 105

An Act to Amend Section 2214.2 of the Revised Codes of Montana, 1935, as Amended by Chapter 132 of the Laws of Montana, Twenty-fifth Session, 1937, Relating to the Validating and Legalizing of Tax Deeds, Notwithstanding Errors Committed in the Procedure Provided by Law for Taking Tax Deeds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2214.2 of the Revised Codes of Montana, 1935, as amended by Chapter 132 of the Laws of Montana, twenty-fifth session, 1937, be, and the same is hereby amended to read as follows: Sec. 2214.2, R. C. 1935, amended.

"Section 2214.2. **Validation of Tax Deeds.** That any tax deed heretofore issued in this state shall not be held invalid by reason of any defect in the form, substance or amounts stated to be due in the notice of application for tax deed, *or in failure to give the full sixty (60) day notice required by Section 2209 of the Revised Codes of Montana, 1935, provided, however, at least thirty (30)* Validation of tax deeds.

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days notice of the time when the deed was applied for was given, and all tax deeds heretofore issued are legalized and declared to be valid and legal regardless of any error, defect, omission, irregularity or failure to correctly state the amount due in the notice of application for tax deed."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 106

An Act Giving Power to the Board of Trustees of Any School District to Sell and Dispose of, or to Exchange School Property Which Has Become or Is About to Become Abandoned as Unsuitable for School Purposes of Said District; and Providing the Procedure to Be Followed.

Be it enacted by the Legislative Assembly of the State of Montana:

Trustees of certain school districts authorized to dispose of undesirable property.

Section 1. The board of trustees of any school district, county high school, school districts maintaining a district high school or junior high school, and joint school districts, shall have the power to sell and dispose of or to exchange any lands, building, fixtures or other property of the district which has become or is about to become abandoned, obsolete, undesirable or unsuitable for school purposes of said district; provided, however, that before making any such sale or exchange the board shall duly pass a resolution declaring such lands, buildings, fixtures or other property to be or about to become abandoned, obsolete, undesirable or unsuitable for school purposes of said district, and providing for the sale and disposition or exchange thereof; provided further that notice of the meeting at which said resolution is to be considered for final adoption and of the proposed passage of said resolution shall be given as provided by law for notices of election of trustees, at which meeting the electors of said district shall have the right to be present and to protest the passage of said resolution. If at the hearing

Procedure.

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on such resolution protests against the adoption of the same shall be made and the board of trustees shall adopt the same over such protests, the resolution shall not become effective for five (5) days after the date of its adoption, during which time any taxpayer or taxpayers may appeal to the district court by filing with the clerk of such court a verified petition, a copy of which shall theretofore have been served upon the clerk or secretary of the board of trustees. Said petition shall set forth in detail the objections of the petitioners to the adoption of such resolution or to the disposal of the property as provided for in said resolution. The service and filing of said petition shall operate to stay such resolution until final determination of the matter by the court. Upon the filing of such petition the court shall immediately fix a time for hearing the same which shall be at the earliest convenient time. At such hearing the court shall hear the matter de novo and may take such testimony as it deems necessary. Its proceedings shall be summary and informal and its determination shall be final. The powers and authority granted by this act shall be in addition to the powers and authority granted in Sections 1014, 1173, Subdivision 2 of Section 1262.83 and Subdivision 8 of Section 1015, as amended, of the Revised Codes of Montana, 1935.

Appeal to district court by taxpayer.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 3, 1939.

CHAPTER 107

An Act to Amend Section 2239 of the Revised Codes of Montana, 1935, Relating to the Duty of County Treasurers With Respect to the Collection of Taxes on Personal Property not Secured by a Lien on Real Property.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2239 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 2239, R. C. 1935, amended.

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Duty of treasurer.

"Section 2239. **Duty of Treasurer.** The county treasurer must collect the taxes on all personal property, and in the case provided in the preceding Section, it shall be the duty of the treasurer immediately upon receipt of such report from the assessor to notify the person or persons against whom the tax is assessed that the amount of such tax is due and payable at the county treasurer's office. The county treasurer must at the time of receiving the assessor's report, and in any event within thirty days from the receipt of such report, levy upon and take into his possession such personal property against which a tax is assessed and proceed to sell the same, in the same manner as property is sold on execution by the sheriff, and the county treasurer may for the purpose of making such levy and sale, designate and appoint the sheriff as his deputy, and such sheriff shall be entitled to receive the same fees as *he is* entitled *to* in making a seizure and sale under execution.

Liability of treasurer for uncollected personal property taxes.

"For the purpose of determining the taxes due, on such personal property, the treasurer must use the levy made during the previous year, if the levy for the current year has not yet been made. The county treasurer and his sureties are liable on his official bond for all taxes on personal property remaining uncollected by reason of the wilful failure and neglect of such treasurer to levy upon and sell such personal property for the taxes levied thereon.

Collection by seizure and sale permissible.

"Nothing herein shall be construed as to prevent the county treasurer from collecting taxes due on personal property by seizure and sale thereof at any time after the expiration of the period hereinbefore mentioned."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 108

An Act Amending Section 1805.61 of the Revised Codes of Montana, 1935, Relating to State Lands, Easements

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for Right of Ways, Requirements for Easements for Right of Ways, Duties of the Commissioner of State Lands and Investments, Duties of the State Board of Land Commissioners, and Amending Section 1805.62, of the Revised Codes of Montana, 1935, Relating to Right of Way Easements for Public Highways, Streets, Railroads and Other Purposes, and Amending Section 1805.63 of the Revised Codes of Montana, 1935, Relating to Right of Way Easements, Settlements With Lessees and Repealing Sections 1805.58, 1805.59 and 1805.60 of the Revised Codes of Montana, 1935, Together With All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1805.61, R. C. 1935, amended.

Section 1. That Section 1805.61 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Application for easement on state land.

"1805.61. Application *for easement on state land* must be made *to the state board of land commissioners and* shall describe the proposed right of way according to survey, show the necessity for the proposed highway or street *or other easement* and give such additional information as the board may require. This application shall be accompanied by two exact copies of the official plat of the proposed highway, street *or other easement* duly verified by the affidavit of the county surveyor or county or city engineer, or other engineer having prepared the same, endorsed thereon. These plats shall show the quantity of land taken by the proposed highway or street *or other easement* for each forty-acre tract or government lot of state land over or through which it passes and also the amount of land remaining in each portion of such forty-acre tract or government lot. When deemed necessary by the board, the aforesaid plats shall show all these facts for such smaller subdivisions as the circumstances may render desirable for the State.

Upon the filing of such application and plats, the commissioner of state lands and investments shall whenever he deems it necessary cause the proposed right of way to be viewed and examined by the chief field agent or some assistant field agent who shall report his findings to the board. The board shall thereupon consider the application and report and take such action as it deems proper, in-

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Compensation and damages to be paid to state.

cluding the fixing of compensation and damages to be paid to the State. The compensation so fixed shall be the full market value of the estate or interest disposed of through the granting of such right of way easement, and the damages shall be the actual damages resulting to the remaining land as nearly as the same can be ascertained. If the right of way is granted according to the plat, then such plat shall become the official plat thereof, and shall be retained in the office of the commissioner. The board shall cause right of way deeds to be issued for all such easements that it may hereafter grant upon full payment therefor being made.

Purchaser of land under contract or his assignee necessary party to proceedings.

If the state land over or through which such right of way is applied for, is under certificate of purchase or under sales contract, the purchaser, or his assignee, must be made a party to the proceedings, and his consent in writing to the laying out and establishment of the proposed highway and to the amount of compensation and damages to be paid must be filed with the board before such right of way shall be granted. The board shall be the judge of how much of such compensation and damages shall be paid to the State and applied on the certificate of purchase or sales contract and of how much thereof, if any, shall be paid to the purchaser, as the circumstances in each individual case may warrant. The provisions of this paragraph shall apply to all grants of rights of way on state lands."

Section 1805.62, R. C. 1935, amended.

Section 2. That Section 1805.62 of the Revised Codes of the State of Montana, 1935, be, and the same is hereby amended to read as follows:

Public uses for which easement may be granted by state board of land commissioners.

"1805.62. The state board of land commissioners may grant an easement for right of way across or upon any portion of state lands for any *public highway, street or for* any ditch, reservoir, railroad, private road, telegraph or telephone line, or for any other public use, as defined in the Code of Civil Procedure; provided, that this Section shall not be construed to grant authority to convey any such land, except for the purposes above set forth; and provided further, that whenever lands granted for any of the purposes mentioned in this Section shall cease to be used for such purposes, said easement shall forthwith terminate upon notice to that effect to the person to whom such grant was made, served at his last known post

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office address. The board shall charge and cause to be collected the full market value of the estate or interest disposed of through the granting of any such easement and also fix, charge and cause to be collected the amount of the actual damages resulting to the remaining land or lands from the granting of such easement as nearly as the same can be ascertained, *providing, however, that where a road follows the section lines of state lands, the increased value accruing to said lands, on account of construction of a road on said right of way easement, shall be taken into consideration by the state board of land commissioners in determining compensation, if any, for the easement.*"

Proviso.

Section 3. That Section 1805.63 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 1805.63, R. C. 1935, amended.

"1805.63. Whenever any kind of right of way easement has been granted under this act and the state land in which it is granted is under lease, the *party receiving such grant* shall give due and timely notice to the lessee and shall make just settlement with him for any damages resulting to his improvements or crops or leasehold interests. Upon such settlement being made, the lessee shall open or move any fences that may obstruct the right of way over the lands under his lease and otherwise cooperate in the opening of the right of way. Proof shall be filed with the board that such settlement has been made before the deed to the easement is issued."

Notice to lessee and settlement with him for damages.

Section 4. That Sections 1805.58, 1805.59 and 1805.60 of the Revised Codes of Montana, 1935, together with all acts and parts of acts in conflict herewith, be, and the same are hereby repealed.

Repealing clause.

Section 5. That this act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 3, 1939.

CHAPTER 109

An Act to Amend Section 2736.7 of Chapter 248, Revised Codes of Montana, 1935, by Prohibiting the Use of Aircraft in Such Manner as to Frighten or Stampede

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Livestock and Providing That Actual and Punitive Damages May Be Recovered Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2736.7, R. C. 1935, amended.

Section 1. That Section 2736.7 be amended to read as follows:

"Section 2736.7. **Lawfulness of Flight—Landings—Recovery of Damages.** Flight in aircraft over the lands and waters of this State is lawful, unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous to persons or property lawfully on the land or water, or in violation of the air commerce regulations which have been, or may hereafter be, promulgated by the department of commerce of the United States. *The wilful and malicious use of aircraft in stunting or diving over livestock in a manner calculated to frighten or stampede them, shall be deemed an unlawful use thereof, and actual and punitive damages, in addition to the penalties, provided by this act, may be recovered in an action for damages caused therefrom.*

Lawfulness of flight.

Damages for wrongful frightening of livestock.

Landings.

The landing of an aircraft on the lands or waters of another, without his consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircarft of the pilot shall be liable for actual damage caused by such forced landing."

Damages recoverable.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall take effect and be in full force from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 110

An Act Authorizing Irrigation Districts to Avail Themselves of the Provisions of the Federal Bankruptcy Acts, to Enter Into Agreements With Their Creditors for the Readjustment of Their Debts and to Settle the

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Same Accordingly and Validating Such Action Heretofore Taken.

Be it enacted by the Legislative Assembly of the State of Montana:

Irrigation districts may avail themselves of the provisions of federal bankruptcy act.

Section 1. The board of commissioners or directors of any irrigation district may, in the name and on behalf of such district, initiate and carry out proceedings for readjustment of the debts of such district, under Chapter IX of the Federal Bankruptcy Act, or similar provisions of any past or future federal bankruptcy act; and all such proceedings heretofore taken by any irrigation district or the officers thereof are hereby ratified and confirmed as valid acts of the district.

Act to be liberally construed.

Section 2. This Statute is remedial in its nature and shall be liberally construed to effect its purpose, which is to permit irrigation districts to readjust their debts under federal bankruptcy acts and to confer upon the board of commissioners or directors thereof every power necessary therefor or reasonably incidental thereto.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 111

An Act to Amend Section 2 and Section 10 of Chapter 115, of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana, Relating to Authority of Political Subdivisions and Governmental Agencies to Undertake a Program of Public Works; Declaring an Emergency; Declaring Purpose of Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2, Chap. 115, laws of 1937, amended.

Section 1. That Section 2 of Chapter 115 of the laws of the twenty-fifth legislative assembly of the State of Montana, be, and the same is hereby amended to read as follows:

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"Section 2. To effectuate the purposes of this act, counties, cities, towns, rural improvement districts, school districts, irrigation districts, drainage districts, sewerage districts, federal reclamation projects and water users' boards of control thereof, and other political subdivisions and governmental agencies of this State, are hereby authorized until *March 15, 1941,* to undertake a program of public works which may include, among other things the following:

Governmental agencies authorized to undertake program of public works.

Program may include what works or projects.

(1) The construction, repair and improvement of public highways, school houses, county and district high schools, public parks and parkways, public buildings and any other publicly owned instrumentalities and facilities;

(2) The control, utilization and purification of water and extension and improvement of existing municipal water works;

(3) Or procuring a supply of water for a municipality which shall or hereafter, own and control such water supply and devote the revenues derived therefrom to the payment of the debt;

(4) The construction, reconstruction, alteration or repair, under public regulation or control, of low cost housing and slum clearance projects;

(5) The construction of any other projects of any character eligible for loans under the provisions of the acts of congress, known as the emergency relief and construction act of 1932, the national industrial recovery act and any other acts amendatory of, or supplementary to, such acts."

Sec. 10, Chap. 115, laws of 1937, amended.

Section 2. That Section 10 of Chapter 115 of the laws of the twenty-fifth legislative assembly of the State of Montana, be, and the same is hereby amended to read as follows:

"Section 10. An emergency exists and this act shall take effect and have force from and after its passage; but this act shall expire and stand repealed on *March 15, 1941.* This act shall not repeal any statute now in force nor prevent the exercise of powers as elsewhere in the statutes of this State provided. It shall constitute an additional method of carrying out the powers herein authorized."

Duration of act.

Act is cumulative.

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Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 3, 1939.

CHAPTER 112

An Act to Amend Section 3614, Revised Codes of Montana, 1935, Relating to the Sale of Nursery Stock, Fruit, Vegetables, Inspection Thereof and Fees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3614, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 3614, R. C. 1935, amended.

"Section 3614. It shall be the duty of every person or persons, corporation or corporations, who sell or deliver to any person or persons, corporation or corporations, any trees, plants, vines, scions, grafts, *fruits or vegetables* not previously inspected under the provisions of this act, to notify the commissioner of agriculture, *or the nearest horticultural inspector of such sale or delivery.* It shall be the duty of the inspector receiving such notice to inspect the said trees, plants, grafts, scions, *vines, fruits or vegetables,* as soon thereafter as practicable, and if the same be found free from any and all diseases and pests, he shall so certify and attach a certificate of inspection to each lot or bill of trees, plants, scions, grafts, vines, *fruits or vegetables,* so inspected. But if any of the trees, grafts, scions, vines, plants, *fruits or vegetables* so inspected shall be found to be diseased or infested with any of the pests *mentioned in Section 3626, Revised Codes of Montana, 1935,* then the inspector shall order the disinfection or destruction of any of said trees, grafts, scions, vines, plants, *fruits or vegetables,* so diseased or infested, together with all boxes, wrapping or packing pertaining thereto; provided, that when any fruit or nursery stock, *or vegetables* is condemned by any inspector, said inspector shall notify the owner thereof, who may appeal to the commissioner of agriculture, whose decision shall be final; and charge and collect the sum of ten ($10.00) dollars for the inspection of each carload of said nursery stock and a proportionate

Duty of seller of nursery stock to notify commissioner of agriculture or nearest horticultural inspector.

Duty of inspector.

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sum for less than carload lots, as fixed by the commissioner; provided, that the commissioner of agriculture shall have power to designate certain places as quarantine stations where all nursery stock brought into the state shall be inspected and disinfected. *The charge for disinfecting or fumigating of nursery stock, fruits and vegetables shall be fixed by the commissioner of agriculture.*

Charges and fees.

For the inspection of vegetables a fee of two cents (2c) per box or package with a maximum fee of four ($4.00) dollars for each separate lot or car shall be charged or collected.

For the inspection of fruit a fee of two (2c) cents per box or package, with a maximum fee of five ($5.00) dollars for each separate lot or car, shall be charged and collected.

The inspector shall collect all such fees and shall not give certificate of inspection until the fees are paid.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 113

An Act to Amend Section 2433.5 of the Revised Codes of Montana, 1935, by Adding Additional Provisions to Permit Contractors to Bid for and Be Awarded Contracts Advertised by the Montana Highway Commission on Federal Aid Work Without Procuring Licenses Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2433.5, R. C. 1935, amended.

Section 1. That Section 2433.5 of the Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows:

Classes of licenses.

"2433.5. **Classes of Licenses. Rights Granted Under Licenses. Fees.** There shall be three classes of licenses issued under the provisions of this act; and such classes of licenses are hereby designated as Classes A, B, and C.

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Any applicant for a license under the provisions hereof, shall specify in his application the class of license applied for.

Rights of holder of Class A license.

The holder of a Class A license shall be entitled to engage in the public contracting business within the State of Montana without any limitation as to the value of a single public contract project, subject, however, to such prequalification requirements as may be imposed by the public body or bodies referred to in Section 1 (b) hereof, and at the time of making the application for such license the applicant shall pay to the registrar a fee in the sum of two hundred dollars ($200.00).

Rights of holder of Class B license.

The holder of a Class B license shall be entitled to engage in the public contracting business within the State of Montana, but shall not be entitled to engage in the construction of any single public contract project of a value in excess of fifty thousand dollars ($50,000.00); and shall pay unto the registrar as a license fee the sum of one hundred dollars ($100.00) for such Class B license at the time of making application therefor.

Rights of holder of Class C license.

The holder of a Class C license shall be entitled to engage in the public contracting business within the State of Montana, but shall not be entitled to engage in the construction of any single public contract project of a value in excess of twenty-five thousand dollars ($25,000.00); and shall pay unto the registrar as a license fee the sum of ten dollars ($10.00) at the time of making application therefor.

License not required in what cases.

Nothing herein shall require any contractor to pay any license fee on any public contract project of a value less than one thousand dollars ($1000.00), *nor shall any contractor be required to have a license hereunder in order to submit a bid or proposal for contracts advertised to be let by the Montana highway commission where federal aid is obtained from the bureau of public roads or the department of agriculture of the United States; neither shall a successful bidder be required to be licensed as provided herein before the awarding and execution of any contract to be let by the state highway commission where federal aid from the bureau of public roads or the department of agriculture of the United States is involved.*"

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 114

An Act Expressing the Consent of the State of Montana to the Composition of Municipal Indebtedness of Cities and Towns of the State of Montana Under the Provisions of the "Municipal Corporation Bankruptcy Act" of the United States; Empowering Such Cities and Towns to Act Thereunder and Under the Orders and Decrees of the Bankruptcy Court Relative Thereto and for the Composition of Their Municipal Debts; Providing That This Act Shall Take Effect From and After Its Passage and Approval, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Cities and towns may avail themselves of provisions of federal municipal corporation bankruptcy act.

Section 1. That the State of Montana does hereby consent and exact that any city or town of the State of Montana, upon and after the adoption by its city council or town council of an ordinance or resolution declaring (1) that it is insolvent or unable to meet its debts as they mature and (2) that it desires to effect a plan for the composition of its debts under the provisions of the "Municipal Corporation Bankruptcy Act" of the United States as amended, added to, and now existing, and providing (3) that said city or town shall proceed to the composition of its municipal indebtedness under the provisions of said act, and (4), upon the acceptance in writing of the plan of composition of its municipal indebtedness proposed by such municipality by creditors of the petitioning municipal corporation owning not less than the percentage thereof in amount of the municipal securities affected or to be affected by the proposed plan of composition, as provided in said act, shall have the right and power to submit itself and such proposed plan of composition to the jurisdiction of the bankruptcy court having jurisdiction of such matter and to be governed by the proceedings, orders and decrees of said court in the manner and extent, and as provided by said

Contents of ordinance or resolution.

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act, and to compose and to enter into, submit itself to, and to perform, the plan of composition in the manner prescribed and required by said act and the orders and decrees of said court thereunder and as affected thereby.

Section 2. Any such city or town shall have the power to do all things, and to comply with all orders and decrees, contemplated by said municipal corporation bankruptcy act and to issue its bonds and other securities for the carrying out and consummation of the composition of its debts as provided and contemplated by said act, and as required by the orders and decrees of said court. *The State of Montana or any department or agency thereof holding any of the securities of any such city or town shall have the power to consent to any plan of composition of the indebtedness of any such city or town by the board having custody of and control over any such securities or by any other official or officials having such custody and control.*

Composition of indebtedness to state.

Section 3. If any clause or other portion of this act is held to be invalid, that decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that all such remaining portions of this act are severable, and that it would have enacted such remaining portions if the invalid portions had not been included in this act.

Separability of act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 3, 1939.

CHAPTER 115

An Act to Amend Section 3742, Revised Codes of Montana 1935, Relating to Transportation, Possession and Disposal of Game Animals or Parts Thereof to Exclude From the Provisions Thereof the Hides of Elk and Deer.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3742 of the Revised Codes of Montana of 1935, shall be, and the same is hereby amended to read as follows:

Sec. 3742, R. C. 1935, amended.

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"Section 3742. **Unlawful to Transport, Possess or Dispose of Animals or Parts of Animals Except Under Permit —Exceptions—Penalty.** It is hereby made unlawful for any person to purchase, sell, offer to sell, possess, ship, or transport within or out of the state any game fish, wild bird, game or fur-bearing animal or part thereof, protected by the laws of this State, or coming from without the State whether belonging to the same or different species from that native to the State of Montana, except as specifically permitted by this act. The provisions of this Section shall not apply to the plumage of wild waterfowl lawfully killed when purchased or sold for other than millinery purposes, or to birds or animals collected or possessed under a permit issued by the proper state fish and game warden for scientific or propagating purposes, nor shall the provisions of this Section be construed to prohibit the purchase, sale or offering for sale, shipping, transporting, or possession for sale, any head, skin, or scalp, mounted or unmounted, or any full-sized mount of any game animal lawfully killed, provided the seller, before selling any such specimen shall first obtain from the state fish and game warden a permit authorizing him to sell it, nor to the sale of fur-bearing animals, or the skins of fur-bearing animals, except untagged beaver skins, nor to the export of fur-bearing animals or the skins of fur-bearing animals under proper permit of the state fish and game warden, *provided, however, that the hides of elk and deer are specifically excluded from the provisions of this Section.* Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished as hereinafter provided."

Unlawful to transport, possess or dispose of protected animals except under permit.

Exceptions.

Penalty.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall take effect and be in full force from and after its passage and approval.

Effective date.

Approved March 3, 1939.

CHAPTER 116

An Act Amending Section 10,000 of the Revised Codes of Montana, 1935, Relating to Reports of Public Adminis-

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trators on Condition of Estates and Giving Notice Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 10,000 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 10,000, R. C. 1935, amended.

"Section 10,000. The public administrator must, once *each year,* make to the district court or a judge thereof, under oath, a return of all estates of decedents which have come into his hands, the value of the same: Public administrator to make annual return of estates in his hands.

1. The money which has come into his hands from each estate.

2. What he has done with it.

3. The amount of his fees and expenses incurred.

4. The balance, if any, remaining in his hands.

5. Post a copy of the same in the office of the clerk of the district court of the county."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval. Effective date.

Approved March 3, 1939.

CHAPTER 117

An Act to Amend Sections 1431, 1432, 1433, 1438, 1439, 1440, 1441, 1443 and 1444, Revised Codes of Montana, 1935, of the Political Code, Relating to the Apprehension, Examination, Hearing and Commitment of Insane Persons and Providing for Their Maintenance and for Procedure Subsequent to Hearing or Commitment, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 1431 of the Political Code is hereby amended to read as follows: Sec. 1431, R. C. 1935, amended.

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"Section 1431. *Whenever it appears by affidavit to the satisfaction of a magistrate of a city or county, that any person therein is so far disordered in his mind as to endanger health, person, or property, he must issue and deliver to some peace officer, for service, a warrant directing that such person be apprehended and taken before a judge of the district court of the county, for a hearing and examination on such charge. Such officer must thereupon apprehend and detain such person until a hearing and examinatiaon can be had, as hereinafter provided. Pending the examination and hearing, such order may be made relative to the care, custody or confinement of the alleged insane person as the judge shall see fit. At the time of the apprehension a copy of said affidavit and warrant of apprehension must be personally delivered to said person.*

Apprehension, examination and custody of alleged insane person.

Such affidavit and warrant shall be in substantially the following form:

IN THE.....COURT

OF.....

COUNTY OF.....STATE OF MONTANA

AFFIDAVIT OF INSANITY

Affidavit of insanity, form.

In the matter of....., an alleged insane person.

STATE OF MONTANA }
} *ss.*
COUNTY OF..... }

....., being duly sworn, deposes and says that there is now in said county, in the city or town of.....a person named....., who is insane, and is so far disordered in mind as to endanger the health, person, or the property of h.....self, or of others, and that he, at.....in said county, on the.....day of....., 19....., threatened and attempted (state actions, etc.).....

.....

.....

.....

That by reason of such insanity, said person is dangerous to be at large:

Wherefore, affiant prays that such action may be had as the law requires in the cases of persons who are so far

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disordered in mind as to endanger health, person and property.

.....

Subscribed and sworn to before me this.....day of ....., 19.....

.....

.....

WARRANT OF APPREHENSION

Warrant of apprehension, form.

IN THE.....COURT, COUNTY OF.....
STATE OF MONTANA

In the matter of....., an alleged insane person.

The State of Montana, to any sheriff, constable, marshal, policeman, or peace officer, in this State:

The affidavit of....., having been presented this day to me, a.....(here state office or title of magistrate, e.g. police judge, justice of the peace, district judge, etc.,) in the county of....., State of Montana, from which it appears that there is now in this county, at.....a person by the name of ....., who is insane, and who is so disordered in mind as to endanger h..... own health, person and property (or the person, lives and property of others), and that it is dangerous for said person to be at large;

And it satisfactorily appearing to me that said..... is insane, and so far disordered in h..... mind as to endanger health, person, and property;

Now, therefore, you are commanded forthwith to apprehend the above named person, and take h..... before a judge of the district court of the.....judicial district in and for the county of.....for a hearing and examination on the said charge of insanity.

And I hereby direct that a copy of this warrant, together with a copy of said affidavit, be delivered to said .....at the time of h..... apprehension; and I further direct that this warrant may be served at any hour of the day or night.

Witness my hand this.....day of....., 19.....

.....

.....

RETURN SHOWING SERVICE OF WARRANT

Return showing service of warrant.

I hereby certify that I received the above warrant of apprehension on the.....day of.....19...., and served

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the said warrant by apprehending, in the county of..... on the.....day of....., 19....., the said ....., alleged to be insane, and bringing h..... before....., judge of the district court of said .....county on the.....day of....., 19.....; and I further certify that I delivered a copy of said warrant of apprehension, together with a copy of the affidavit of insanity, as directed in said warrant, personally to said....., at the time of the apprehension.

.....

.....

He must be taken before a judge of the district court, to whom said affidavit and warrant of apprehension must be delivered to be filed with the clerk. The judge must then inform him that he is charged with being insane, and inform him of his rights to make a defense to such charge and produce any witnesses in relation thereto. The judge must by order fix such time and place for the hearing and examinataion in open court as will give reasonable opportunity for the production and examination of witnesses; provided, however, that if the patient is too ill to appear in court, or if it would be detrimental to the mental or physical health of the patient, the judge may hold the necessary hearing at the bedside of the patient. Said order must be entered at length in the minute book of the court or must be signed by the judge and filed and a certified copy of the same served on such person. The judge must also order that notice of apprehension of such person and the hearing on such charge of insanity be served on such relatives of said person known to be residing in the county as the court may deem necessary or proper."

Order fixing time and place for hearing and examination.

Sec. 1432, R. C. 1935, amended.

Section 2. Section 1432 of the Political Code is hereby amended to read as follows:

Subpoenas to witnesses.

"Section 1432. When the person is taken before the judge, the judge must issue subpoenas to two or more witnesses best acquainted with said insane person, to appear before him and testify at such examination."

Sec. 1433, R. C. 1935, amended.

Section 3. Section 1433 of the Political Code is hereby amended to read as follows:

Graduates of medicine to be subpoenaed.

"Section 1433. The judge must also issue subpoenas for at least two graduates of medicine to appear and attend such examination."

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Section 4. Section 1438 of the Political Code is hereby amended to read as follows:

Sec. 1438, R. C. 1935, amended.

"Section 1438. The judge, after such examination and certificate made, if he believes the person so far disordered in his mind as to endanger health, person, or property, must make an order that the party be confined in the insane asylum, and a copy of such order must be filed with and recorded by the clerk of the district court of the county. The clerk must also keep in convenient form an index book, showing the name, age, and sex of each person so ordered to be confined in the insane asylum, with the date of the order and the name of the insane asylum in which the person is ordered to be confined. No fees must be charged by the clerk for performing any of the duties provided for by this Section or in this Chapter."

Order of confinement in insane asylum.

Section 5. Section 1439 of the Political Code is hereby amended to read as follows:

Sec. 1439, R. C. 1935, amended.

"Section 1439. The insane person, together with the order of the judge, and the certificate of the physicians must be delivered to the sheriff of the county, and by him must be delivered to the officer in charge of the insane asylum. *The superintendent or person in charge of the state hospital for the insane may refuse to receive any person upon any order, if the papers presented do not comply with the provisions of this Chapter.*"

Delivery of insane person to the insane asylum.

Section 6. Section 1440 of the Political Code is hereby amended to read as follows:

Sec. 1440, R. C. 1935, amended.

"Section 1440. Any moneys found on the person of an insane person at the time of arrest must be certified to by the judge, and sent with such person to the asylum, there to be delivered to the person in charge of the asylum, whose receipt therefor shall be taken by the sheriff, or other officer delivering said insane person to said asylum. If the sum exceed one hundred dollars, the excess must be applied to the payment of the expenses of said person while in the asylum. If the sum is one hundred dollars or less, it must be kept and delivered to the person when discharged, or applied to the payment of funeral expenses if the person dies at the asylum. Any balance of said one hundred dollars or less remaining in the hands of the officers of the asylum, after the death of the insane person, shall be returned to the county treasurer of the county

Disposition of moneys found on the person of an insane person.

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from which said insane person was sent, and if any sum remains after paying costs of trying and transporting said insane person to the asylum, this balance shall be paid into the state treasury to the credit of the general fund."

Sec. 1441, R. C. 1935, amended.

Section 7. Section 1441 of the Political Code is hereby amended to read as follows:

Compensation and mileage of physicians attending examination.

"Section 1441. The physicians attending each examination of an insane person are allowed five dollars and in addition his actual traveling expenses, not to exceed the sum of ten cents for each and every mile actually and necessarily traveled by said physician in attending said examination, and in returning to his home therefrom, to be paid by the county treasurer of the county, where the examination was had, on the order of the *judge.*

The clerk of the district court must give to such physician a certificate, under seal, of travel and attendance, which shall entitle him to receive the amount therein stated from the county treasurer."

Sec. 1443, R. C. 1935, amended.

Section 8. Section 1443 of the Political Code is hereby amended to read as follows:

Jury to try question of sanity, procedure.

"Section 1443. *If a person ordered to be committed, or any friend in his behalf, is dissatisfied with the order of the judge committing him, he may, within five days after the making of such order, demand that the question of his sanity be tried by a jury before the district court of the county in which he was committed. Thereupon that court must cause a jury to be summoned and to be in attendance at a date stated, not less than five nor more than ten days from the date of the demand for a jury trial.*

At such trial the cause against the alleged insane must be represented by the county attorney of the county, and the trial must be had as provided by law for the trial of civil causes before a jury, and the alleged insane person must be discharged unless a verdict that he is insane is found by at least three-fourths of the jury.

If the verdict of the jury is that he is insane, the judge must adjudge that fact and make an order of commitment as upon the original hearing. Such order must be presented, at the time of commitment of such insane person, to the superintendent or person in charge of the hospital to which the insane person is committed, and a copy thereof

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be forwarded by such superintendent to the board of the commissioners for the insane and filed in its office.

Proceedings under the order must not be stayed, pending the proceedings for determining the question of sanity by a jury, except upon the order of a district judge, with provision made therein for such temporary care and custody of the alleged insane person as may be deemed necessary. If the district judge, by the order granting the stay, commits the accused insane to the custody of any person other than a peace officer, he may, by such order, require a bond for his appearance at the trial. If a judge refuses to grant an application for an order of commitment of an insane person alleged to be dangerous to himself and others, if at large, he must state his reasons for such refusal, and any person aggrieved thereby may demand a trial of the question of the insanity of such accused insane, in the manner hereinbefore provided for a jury trial when demanded by or on behalf of the accused insane.

Bond for appearance.

If the person sought to be committed is not a poor or indigent person, the costs of the proceedings are a charge upon his estate, or must be paid by persons legally liable for his maintenance, unless otherwise ordered by the judge. If the alleged insane person is adjudged not to be insane, the judge may, in his discretion, charge the costs of the proceedings to the person making the application for an order of commitment, and judgment may be entered against him for the amount thereof and enforced by execution."

Costs of proceedings.

Section 9. Section 1444 of the Political Code is hereby amended to read as follows:

Sec. 1444, R. C. 1935, amended.

"Section 1444. Whenever a hearing for examination or committal is had before the judge, and the person is adjudged to be insane and ordered confined in the insane asylum, it shall be the duty of the judge before whom the hearing is had to take evidence as to the financial worth of said insane person, which evidence shall be reduced to writing and filed in the office of the clerk of the district court of the proper county, together with all orders, subpoenas, *affidavits,* complaints, warrants and papers used on said hearing or made by said judge, and said clerk shall enter upon the journal of the minutes of probate proceedings a *record of all proceedings had,* in the same manner as proceedings in probate, and if it appear from said evidence

Evidence of financial worth of insane person to be taken.

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that said insane person has any means, money or property, out of which the expenses of his maintenance in the insane asylum, or any part thereof could be paid, it shall be the duty of the judge before whom hearing is had, to issue a citation to the parties in possession of his property, and to the relatives of said insane person, if any there be in the county where said insane person resided, citing them to appear and show cause why a guardian should not be appointed for said insane person, and why said guardian should not be ordered to pay the costs of the maintenance of said insane person, or so much thereof as his means will permit, which citation shall be served and all proceedings thereunder conducted as provided by Sections 10355 to 10376 of these Codes, and if it appear to the court that said insane person has property that can be applied towards his maintenance, it shall be the duty of the court to make an order to that effect, stating how much of the said insane person's property shall be applied, the amount to be fixed with due regard to the proper preservation of the estate of said insane person."

Guardianship proceedings.

Application of property of insane person towards his maintenance.

Repealing clause.

Section 10. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1939.

CHAPTER 118

An Act to Amend Section 10279 of the Revised Codes of Montana of 1935, relating to Validation of Sales—Curative Deeds, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 10279, R. C. 1935, amended.

Section 1. That Section 10279 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Validation of sales.

"Section 10279. **Validation of Sales—Curative Deeds.** All sales by executors and administrators of their decedent's real and personal property, and all sales by guardians of their ward's real and personal property, in this state, which, previous to the date of this amendatory act, were made to purchasers for a valuable considera-

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tion, which consideration has been paid by such purchasers to such executors or administrators or guardians, or their successors, in good faith, and such sales shall not have been set aside by the district or probate court having jurisdiction thereof, shall be sufficient to sustain an executor's or administrator's or guardian's deed or conveyance to such purchaser for such real or personal property; and, in case such deed or conveyance shall not have been given, shall entitle such purchaser to such deed or conveyance; and such deed or conveyance, if now executed or when executed, shall be sufficient to convey to such purchaser all the title that such decedent or ward had in said real or personal property; and all irregularities in obtaining the order of the court for such sale, and all irregularities or defects in making or conducting such sale by said executor or administrator or guardian, shall be disregarded, and such sale shall not be invalidated by reason of any such defect or irregularity."

Irregularities to be disregarded.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 3, 1939.

CHAPTER 119

An Act to Amend Section 2841 of the Revised Codes of Montana, 1935, Relating to Workmen's Compensation; Repealing Section 2843 of the Revised Codes of Montana, 1935, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2841 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 2841, R. C. 1935, amended.

"Section 2841. **Employers Engaged in Hazardous Industries—Election.** Every employer engaged in the industries, works, occupations, or employments in this act specified as "hazardous", *shall,* on or before the first day

Employers engaged in hazardous industries must elect, procedure.

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of July, *1939,* if such employer be then engaged in such hazardous industry, work, occupation, or employment, or at any time thereafter, or, if such employer be not so engaged on said date, *shall,* on or after thirty days before entering upon such hazardous work, occupation, or employment, or at any time thereafter, elect whether he will be bound by either of the compensation plans mentioned in this act. Such election shall be in the form prescribed by the board, and shall state whether such employer shall be bound by compensation plan number one, or compensation plan number two, or compensation plan number three, and a notice of such election, with the nature thereof shall be posted in a conspicuous place in the place of business of such employer, and a copy of such notice, together with an affidavit of such posting, shall be filed with the board.

Re-election by employer

After having once elected to be bound by one or the other of the compensation plans provided in this act, such employer shall be bound by such election, except as hereinafter provided, for said first fiscal year and each succeeding fiscal year, provided, however, that such employer may at any time upon thirty days written notice to the insurer or the board, as the case may be, elect to be bound by a different compensation plan than the one by which he is then governed. Such election must be made in the manner provided for in reference to the first election of such employer under this act."

Sec. 2843, R. C. 1935 repealed.

Section 2. That Section 2843 of the Revised Codes of Montana, 1935, be, and the same hereby is, repealed.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after the first day of July, 1939.

Approved March 3, 1939.

CHAPTER 120

An Act to Invest the Montana State Highway Commission With Authority to Assist Municipal Corporations in the Construction and Development of Airports by Lending

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Equipment, Machinery and Technical Services and Recognizing and Declaring an Emergency.

Be it enacted by the Legislative Assembly of the State of Montana:

Highway commission authorized to assist municipal corporations in construction, etc., of roads to airports.

Section 1. The Montana state highway commission is hereby authorized and upon written application of the governing body of any municipal corporation in Montana, to assist such corporations in the location, establishment, construction, reconstruction, maintenance and improvement of highways and roads to and from municipal airports and field development thereof; and the commission shall lend its equipment, machinery, technical services and supervision to the same, under agreements made with each municipal corporation.

Declaration of emergency.

Section 2. The legislative assembly of the State of Montana hereby recognizes the existence of the emergency requiring the enactment of this legislation in that the existing economic depression prevailing throughout the United States has greatly retarded the proper development of airports in the State of Montana, and their ready connections with city centers and main highways; and the pressing necessity of speeding the development of all airports in furtherance and co-ordination of national defense, and declares the same.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 121

An Act Authorizing the Creation of a Safety or Reserve Fund by Mutual Hail, Fire, Lightning and Other Insurance Companies Organized Under the Provisions of Sections 6170 to 6205 of the Revised Codes of Montana of 1935, and Authorizing Investment of the Reserve Fund Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any mutual insurance company as defined under and by virtue of Sections 6170 to 6205 inclusive of

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Mutual insurance companies may create reserve fund.

the Revised Codes of Montana, 1935, may create a safety or reserve fund for the purpose of paying any claim or claims for losses on any policies of insurance issued by said company or for the purpose of paying any lawful expenses or obligations which said company may from time to time incur. Such reserve fund shall not exceed an amount equal to three (3%) per cent of the total amount of insurance which may be in force in said company at any one time. Provided that such safety or reserve fund shall not be used for any purpose whatsoever except as herein authorized.

Investment of reserve fund.

Section 2. When so directed by a majority vote of the members present of the company the directors shall have the power to invest the reserve fund of the company or any part thereof in bonds or other securities of the United States Government, or any government agency, or any investment the safety of which is guaranteed by the United States, in general obligation bond or warrants of any state, county or city as are recommended by the state auditor and approved by the state examiner. At the time of purchase such investments must be stamped with the name of the company with the following notation printed thereon, "Negotiable only upon the order of the directors of such company".

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

CHAPTER 122

An Act Relating to Freedom of Speech Transmitted Over and by Means of Radio Broadcasting Stations: The Liability Under the Law of Libel and Defamation of the Owners and Operators of Such Stations, Who Without Actual Malice Allow and Permit Their Facilities to Be Used in the Discussion of Controversial or Any Other Subjects; Allowing and Permitting Discretion to Be Exercised in the Submission for Permanent Filing of a Copy of the Complete Address, Discussion, or

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Other Form of Expression Intended or Proposed to Be Broadcast or Transmitted Over the Facilities of Such Station or Stations, and Designating the Maximum Time for the Submission of Such Copy and Relating to Evidence of Malice; Declaring the Liability Under the Law of Libel and Defamation of Persons Using Broadcasting Facilities, Including Any Person, Firm or Corporation Owning or Operating Such Station or Stations, and Repealing All Acts, or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Liability of owner or operator of radio station under the law of libel.

Section 1. No person, firm, or corporation owning or operating a radio broadcasting station shall be liable under the law of libel and defamation on account of having made its broadcasting facilities available to any person, whether a candidate for public office or any other person, for discussion of controversial or any other subjects, in the absence of proof of actual malice on the part of such owner or operator.

Copy of proposed radio address may be required.

Section 2. Any person, firm or corporation owning or operating a radio broadcasting station shall have the right, but shall not be compelled, to require the submission and permanent filing, in such station, of a copy of the complete address, or other form of expression, if in words, intended to be broadcast over such station, not more than 48 hours before the time of the intended broadcast thereof.

Construction of act.

Section 3. Nothing in this act contained shall be construed to relieve any person broadcasting over a radio station from liability under the law of libel and defamation. Nor shall anything in this act be construed to relieve any person, firm or corporation owning or operating a radio broadcasting station from liability under the law of libel and defamation on account of any broadcast prepared or made by any such person, firm or corporation or by any officer or employee thereof in the course of his employment; and in any case where liability shall exist on account of any broadcast as declared in the first clause of this sentence, in that event where two or more broadcasting stations were connected together simultaneously or by transcription, film, metal tape or other approved or adapted use for joint operation, in the making of

In case of liability, owners or operators of station originating broadcast shall be liable.

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such broadcast, such liability shall be confined and limited solely to the person, firm or corporation owning or operating the radio station which originated such broadcast.

Repealing clause.

Section 4. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1939.

CHAPTER 123

An Act Relating to Copyrights and Public Performing Rights in Musical Compositions, and Dramatico-Musical Compositions, the Registration Thereof Describing Each Such Musical Composition and Dramatico-Musical Composition, the Performing Rights Intended to Be Sold, Licensed or Otherwise Disposed of in the State of Montana, Showing the Name and Title of the Copyrighted Composition, the Date of the Copyright, the Number or Other Identifying Symbol, Given Thereto in the United States Copyright Office, the Name of the Author, the Name of the Publisher, the Name of the Present Owner of the Copyright to Such Composition, the Name of the Present Owner of the Performing Rights Thereto, Requiring the Filing of Such Descriptive Lists in the Office of the Secretary of State of Montana, Making Such Lists Available for Examination and the Taking of Copies Thereof; Providing for the Publication of Such Lists in the Discretion of the Secretary of State and the Duties of the Secretary of State; Providing the Method for Computing Charges or Compensation in Certain Cases; Authorizing and Permitting the Secretary of State of Montana to Accept Service of Process in Suits or Proceedings Arising Under the Act and Describing the Method to Be Followed, and the Duties of the Secretary of State in Relation Thereto, and the Fees to Be Charged Therefor; Providing for Pleading and Proving Compliance With the Act; Providing Penalties for the Violation Thereof and Repealing Chapter 90 of the Laws of the Twenty-fifth Legislative Session, 1937.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions of terms.

Section 1. As used in this act, "person" means any individual, resident or non-resident, of this State, and

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every domestic or foreign or alien partnership, society, association or corporation. The words "performing rights" as used in this act refer to "public performance for profit".

Conditions precedent to sale of performing rights of a copyrighted musical composition.

Section 2. It shall be unlawful for any person to sell, license the use of, or in any manner whatsoever dispose of, or contract to dispose of, in this State, the performing rights in or to any musical composition or dramatico-musical composition which has been copyrighted under the laws of the United States, and which is the subject of an existing copyright, or to collect any compensation on account of any such sale, license or other disposition, unless such person:

Descriptive list to be filed with secretary of state.

(a) Shall first have filed with the secretary of state a list describing each such musical composition and dramatico-musical composition, the performing rights in which said person intends to sell, license or otherwise dispose of in this State, which description shall include the following: The name and title of the copyrighted composition, the date of the copyright, the number or other identifying symbol given thereto in the United States copyright office, the name of the author, the name of the publisher, the name of the present owner of the copyright to said composition, and the name of the present owner of the performing rights thereto. Additional lists of such copyrighted compositions may be filed by any such person from time to time, and shall be subject to all the provisions of this act.

Affidavit to be filed.

(b) Shall simultaneously file an affidavit that the compositions so listed are copyrighted under the laws of the United States, that the facts contained in the list to which said affidavit relates are true, that affiant has full authority to sell, license or otherwise dispose of the performing rights in such compositions; and the affidavit shall set forth the name, age, occupation and residence of the affiant; and if an agent, the name, occupation and residence of his principal.

List to be available for examination.

Section 3. The list provided for in Section 2 shall be made available by the secretary of state to all persons for examination, and taking of copies, in order that any user of such compositions in this State may be fully advised concerning the performing rights therein, and avoid being over-reached by false claims of ownership

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of said performing rights, and also avoid committing innocent infringements of said works. The secretary of state may, if in his discretion he deems it necessary, in order to prevent such over-reaching and to protect the citizens of this State from committing innocent violations of the copyright laws of the United States, cause all such copyrighted material filed with him to be published once a year or oftener in a form and medium which he shall deem suitable for said purpose.

Charge for use of composition to be based upon a program in which it is rendered.

Section 4. It shall be unlawful for any person selling, licensing the use of, or in any manner whatsoever disposing of, or contracting to dispose of, in this State, the performing rights in or to any musical composition or dramatico-musical composition, to make any charge, or to contract for or collect, any compensation, as a condition of using said performing rights, based in whole or in part, on any program not containing any such composition; and any such charge or contract for compensation shall be valid and enforceable only to the extent that it is based and computed upon a program in which such composition is rendered.

Authorization of secretary of state to accept service of process.

Section 5. At the time of filing the information required in Section 2, the owner of said performing rights shall likewise execute and deliver to the secretary of state, on a form to be furnished by the secretary of state, an authorization empowering the secretary of state to accept service of process on such person in any action or proceeding, whether cognizable at law or in equity, arising under this act, and designating the address of such person until the same shall be changed by a new form similarly filed; and service of process may thereafter be effected in this State on such person in any such action or proceeding by serving the secretary of state with duplicate copies of such process; and immediately upon receipt thereof the secretary of state shall mail one of the duplicate copies by registered mail to the address of such person as stated on the authorization last filed by him.

Filing fee.

Section 6. Any person filing with the secretary of state such list shall at the time of filing the same, pay a filing fee in the amount of two cents for each composition described in said list.

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Section 7. No person shall be entitled to commence or maintain any action or proceeding in any court with respect to such performing rights, or to collect any compensation on account of any sale, license or other disposition of such performing rights, in this State, except upon pleading and proving compliance with the provisions of this act. Compliance with act to be pleaded.

Section 8. It shall be unlawful for any person, without the consent of the owner thereof, if said owner shall have complied with the provisions of this act, publicly to perform for profit, in this State, any such composition, or for any person knowingly to participate in the public performance for profit of such composition, or any part thereof. Unauthorized public performance of composition for profit unlawful.

Section 9. Any violation of this act shall constitute a misdemeanor, to be punished as provided elsewhere in the laws of this State. Penalty.

Section 10. If any section, sentence, clause or word of this act shall be held to be unconstitutional, the invalidity of such section, sentence, clause or word shall not affect the validity of any other portion of this act, it being the intent of this legislature to enact all of the provisions of this act insofar as they conform to the constitution of this State and of the United States. Severability of act.

Section 11. All acts and parts of acts in conflict herewith are hereby repealed, especially repealing Chapter 90 of the Session Laws of 1937. Repealing clause.

Section 12. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 4, 1939.

CHAPTER 124

An Act Relating to the Granting of Relief From Mortgage Foreclosure and From Execution Sales of Real Estate; Providing for Extending the Period of Redemption From Said Mortgage Foreclosures and Execution Sales, and Designating the Procedure to Obtain Such Relief and the Authority of Courts in Relation Thereto; Limiting the Right to Maintain Actions for Deficiency

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Judgments; Extending the Expiration of Certain Periods of Redemption, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Emergency declared.

Section 1. **Emergency Declared to Exist.** The legislature of the State of Montana hereby declares that a public economic emergency does exist in the State of Montana.

Period of redemption may be extended.

Section 2. **Period of Redemption May Be Extended.** Where any mortgage upon real property has been foreclosed and the period of redemption has not yet expired, or where a sale is hereafter had, in the case of real estate mortgage foreclosure proceedings, now pending, or which may hereafter be instituted prior to the expiration of two years from and after the passage of this act, or upon the sale of any real property under any judgment or execution where the period of redemption has not yet expired, or where such sale is made hereafter within two years from and after the passage of this act, the period of redemption may be extended for such additional time as the court may deem just and equitable but in no event beyond *March 1, 1941.*

Benefits of act, how invoked.

Section 3. **Benefits of Act — How Invoked.** Any mortgagor or execution debtor or judgment debtor who is lawfully in possession of land or lands during the pendency of mortgage foreclosure proceedings, or at the time of sale of land under judgment or execution sale, may avail himself of the relief authorized by this act in the following manner: At any time prior to the expiration of the period of redemption now provided by the laws of Montana any such person may apply to the district court having jurisdiction of the matter, on not less than ten (10) days' written notice to the mortgagee or judgment creditor, which notice may be served on the attorney of record of either, for an order determining the reasonable value of the income of said property, or if it has no income, then the reasonable rental value of the property involved in such sale, and permitting the applicant for such relief, to pay all or a reasonable part of the income or rental value of said property, to be applied to the payment of taxes, insurance, interest or to the mortgage or judgment indebtedness, at such times

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and in such manner as shall be fixed and determined by the court, and to thereupon obtain an extension of the period of redemption in accordance with the terms of this act.

Hearing and order of court.

Section 4. **Hearing and Order of Court.** The court shall thereupon hear said application and after taking testimony thereon, shall make and enter its order directing the payment by the applicant for relief under this act of such an amount at such times and in such manner as to the court shall, under all the circumstances of the case, appear just and equitable, to be applied as in this act provided. Such order to further contain such terms and conditions as to the care and operation of the mortgaged premises as to the court shall appear just and equitable.

Suspension of period of redemption.

Section 5. **Suspension of Period of Redemption.** Upon the filing of the application provided for in this act and the service of the notice of same as herein provided, the running of the period of redemption shall be tolled until the court shall make its order upon such application.

Effect of default by applicant.

Section 6. **Effect of Default by Applicant.** If at any time after the making of the order of court aforesaid, any applicant for relief under the terms of this act shall make default in the payments or any of them specified in the court's order, or in performance of any of the terms and conditions of the court's order, or shall commit any waste upon the premises involved, such default or commission of waste shall constitute grounds for the revocation of said order and for the termination of the applicant's right to redeem said land. If such default or commission of waste shall continue for a period of thirty (30) days, the mortgagee, judgment creditor or other persons whose rights have been affected by such order, may upon not less than ten (10) days' notice to the applicant for relief under this act, apply to the district court for an order adjudging the applicant to have defaulted in the performance of the court's order and for the revocation of said order and the restriction of the right of redemption to the period theretofore provided by law. Said applicant shall be heard and the matter determined by the court who shall thereupon make and enter such order thereon as in its judgment the circumstances of the case warrant.

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Extension of period of redemption in certain cases.

Section 7. **Extension of Period of Redemption in Certain Cases.** The time of redemption from all real estate mortgage foreclosures and from all execution sales of land heretofore made, which would under existing laws expire in less than thirty (30) days after the effective date of this act, are hereby extended to a time thirty (30) days after the effective date of this act, and any person who is entitled to relief hereunder, may avail himself of the benefits of this act in relation to such foreclosure or execution sales at any time prior to the expiration of said thirty (30) day period.

Court may revise and alter terms.

Section 8. **Court May Revise and Alter Terms.** Upon the application of either party prior to the expiration of the extended period of redemption as provided in this act and upon the presentation of evidence that the terms fixed by the court are no longer just and reasonable, the court may revise and alter said terms, in manner as the changed circumstances and conditions may require.

Certain deficiency judgments prohibited.

Section 9. **Certain Deficiency Judgments Prohibited.** Until *March 1, 1941,* no deficiency judgment shall be entered or given in this State in any real estate mortgage foreclosure action now or hereafter pending in this state until the period of redemption now allowed by the laws of Montana or as extended under the provisions of this act, has expired.

Application of act.

Section 10. **Application of Act.** This act as to mortgage foreclosures shall apply only to mortgages made prior to the passage and approval of this act but shall not apply to mortgages made prior to the passage of this act which shall hereafter be renewed or extended for a period ending more than one year after the passage of this act; neither shall this act apply in any way which would allow a resale, stay, postponement or extension to such time that any right might be adversely affected by a statute of limitations.

Act not applicable to mortgages held by United States.

Section 11. The provisions of this act shall not apply to any mortgage while such mortgage is held by the United States or by any agency, department, bureau, board, or commission thereof, as security or pledge of the maker, its successors, or assigns, nor shall the provisions of this act apply to any mortgage held as security or pledge to secure payment of a public debt or to secure payment of the deposit of public funds, nor shall the

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provisions of this act apply to any note or mortgage insured by the federal housing administrator.

Section 12. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 13. This act shall take effect and be in force from and after its passage and approval. Effective date.

Approved March 2, 1939.

CHAPTER 125

An Act to Amend Section 1760 of the Revised Codes of Montana, 1935, as Amended by Chapter 138 of the Laws of Montana, Enacted by the Twenty-fifth Session, 1937, Relating to Registration of Motor Vehicles, Fees, Disposal of Proceeds, Fee for Half Year, Dealers' Registration and Transfer Thereof, and Exempting Public Owned Vehicles; and Providing Fees for Tractors, Defining Same, and Fees for Trailers and Semi-Trailers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1760 of the Revised Codes of Montana, 1935, as amended by Chapter 138 of the Laws of Montana, enacted by the twenty-fifth session, 1937, be, and the same is hereby amended to read as follows: Sec. 1760, R. C. 1935, amended.

"Section 1760. Registration fees shall be paid upon registration or re-registration of motor vehicles, trailers, semi-trailers and dealers in motor vehicles in accordance with this act, as follows: Registration fees, amount of fixed.

"Dealers in motor vehicles other than motorcycles, a minimum fee of thirty dollars ($30.00) which shall entitle such dealer to two (2) sets of number plates, and five dollars ($5.00) additional fee for each additional set of number plates up to six (6) sets, and two dollars ($2.00) additional fee for each additional set of number plates, as may be applied for by such dealer; provided, that each dealer be required to furnish the registrar of motor vehicles a statement *under oath showing the makes of new motor vehicles handled by him and that he has a written current year's franchise with the manufacturer of such new motor vehicles handled by him or a written current year's* Dealers in motor vehicles.

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franchise with a duly authorized distributor of such new motor vehicles handled by him, and the total number of each make sold by him during the preceding year, and that he not be issued a license unless he so conforms;

Fees.

"Dealers in motorcycles, fifteen dollars ($15.00);

"Motor vehicles, weighing twenty-eight hundred and fifty (2850) pounds, or under, other than motor trucks, five dollars ($5.00);

"Motor vehicles, weighing over twenty-eight hundred and fifty (2850) pounds, other than motor trucks, ten dollars ($10.00);

"Electrically driven passenger vehicles, ten dollars ($10.00);

"All motorcycles, two dollars ($2.00);

"Tractors and trucks of one (1) ton capacity or under, five dollars ($5.00);

Tractors and trucks.

"Tractors and trucks over one (1) ton and up to and including one and one-half (1½) tons capacity, ten dollars ($10.00);

"Tractors and trucks over one and one-half (1½) tons and up to and including two (2) tons capacity, twenty-two dollars and fifty cents ($22.50);

"Tractors and trucks over two (2) tons and less than three (3) tons capacity, thirty-seven dollars and fifty cents ($37.50);

"Tractors and trucks of three (3) tons and less than five (5) tons capacity, sixty dollars ($60.00);

"Tractors and trucks of five (5) tons capacity and over, two hundred dollars ($200.00); provided that tractors shall not be construed as meaning farm tractors used on farms or tractors used solely in logging operations but only such tractors as are a part of a unit to haul over the highways;

Busses.

"Busses shall be classed as motor trucks and licensed accordingly;

"Trailers and semi-trailers, over one thousand (1000) pounds and not over one (1) ton, two dollars ($2.00);

Trailers and semi-trailers.

"Trailers and semi-trailers, over one (1) ton and less than two (2) ton capacity fifteen dollars ($15.00); over

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two (2) ton and less than three (3) ton capacity, twenty dollars ($20.00); over three (3) ton and less than four (4) ton capacity, twenty-five dollars ($25.00); over four (4) ton and less than five (5) ton capacity, thirty dollars ($30.00); over five (5) ton capacity, two hundred dollars ($200.00); provided that trailers owned by farmers and used in the transportation of his own livestock and his own farm produce with a five (5) ton capacity or more, shall be excluded from such provisions and the fee shall be five dollars ($5.00). And be it further provided that trailers used exclusively in the transportation of logs in the forest or in the transportation of oil and gas well machinery, road machinery and bridge material exclusively, new and second hand, and trailers used exclusively for the transportation of road machinery and bridge materials, shall pay a fee of fifteen dollars ($15.00) annually, regardless of size or capacity.

Proviso.

"All rates to be twenty-five per cent (25%) higher for motor vehicles, trailers and semi-trailers, when not equipped with pneumatic tires;

"Bicycles with motor attachment, one dollar ($1.00).

"Tractors, as specified in this Section, shall mean any motor vehicle used for towing a trailer or semi-trailer.

"All license or registration fees collected by the county treasurer of the county in which any motor vehicle is registered shall be credited to the motor vehicle license fund of said county. The cost of making and shipping license plates and identification marks, certificates and other expenses of operating the motor vehicles department of the State of Montana shall be pro rated by the registrar of motor vehicles among the counties of the State in proportion to the number of cars registered in each county, and he shall bill each county therefor, by verified claim, and each county shall thereupon pay the amount so charged out of said motor vehicle license fund; provided, however, that each county shall receive credit for its pro rata share of any fees or license money paid to the registrar of motor vehicles. The remainder of the funds in said motor vehicle license fund shall be used as follows:

Disposition of fees collected.

Expenses of motor vehicles department to be pro rated among counties.

"(a) Fifty per cent (50%) of the net fees derived from the registration of motor vehicles, the owners of which reside within the boundaries of any incorporated

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Special provision in respect to cities having a certain population.

city of the State of Montana, having a population of thirty-five thousand (35,000), or more, according to federal census of 1930, shall be held by county treasurer and segregated from other county road funds and be designated as 'city road fund', to be used in city from which fees were derived for the construction of permanent streets within the incorporated limits of such city.

"(b) The fees held in the city road fund, as hereinabove provided, shall be used by the city council of such city having the population of thirty-five thousand (35,000), or more, according to the federal census of 1930, only for the construction of permanent highways and streets within the boundaries of such incorporated city. Provided, that all construction of public highways and streets, the cost of which is to be paid out of the fund derived from the license fees as herein provided, shall be under the supervision of the county surveyor of the county within whose boundaries such city is situated, subject to the control of the said city council and surveyor to designate the public highway or street upon which the work is to be done, and the type of pavement to be used, and provided further, that the cost of supervision of the county surveyor shall not exceed five per cent (5%) of the cost of said work.

Purposes for which fees in city road fund may be used.

Net fees paid to county to be used for highway purposes.

"(c) The net fees derived from the registration of motor vehicles shall be by the registrar of motor vehicles transmitted to, and paid over to the county treasurer of the county from which the registration fee came, such fees excepting apportionment to city road fund, to be used by said county for the construction, repair and maintenance of all public highways, except state and federal highways, within the boundaries of said county, including city streets forming component parts of arterial highways within the corporate cities of less population than thirty-five thousand (35,000), according to the federal census of 1930, within the boundaries of said county.

"If any dealer, or motor vehicle, or trailer, or semi-trailer is originally registered six (6) months after the time of registration as set by law, the registration fee for the remainder of such year shall be one-half (½) of the regular fee above given.

Fee for six months.

Dealer to pay fee for each of his places of business.

"A dealer in motor vehicles who shall maintain more than one (1) place of business or who shall maintain any branch establishment or establishments, must register

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and pay a registration fee for each such place of business or establishment.

"A registered dealer, who may sell or dispose of his entire business to any other person, may have his certificate of registration transferred to such purchaser upon filing with the registrar of motor vehicles a statement containing the name of the registered dealer, the number under which such dealer is registered, the name of the purchaser, and the location of the place of business so sold. Upon the filing of such statement, accompanied by a filing fee of one dollar ($1.00), the registrar of motor vehicles shall note upon the registration record of such dealer the change of ownership. But no certificate of registration can be transferred unless the entire business of the dealer holding such certificate of registration be sold and disposed of, and no such certificate of registration can be transferred to any person other than the purchaser of such business.

Transfer of certificate of registration to dealer's successor in business.

"The provisions of this act with respect to the payment of registration fees shall not apply to or be binding upon motor vehicles, trailers or semi-trailers or tractors owned or controlled by the United States of America or any state, county or city, but in all other respects the provisions of this act shall be applicable to and binding upon motor vehicles, tractors, trailers and semi-trailers."

Act not applicable to vehicles of state or United States, counties or cities.

Section 2. If any clause, sentence, paragraph, section or any part of this act shall be declared and adjudged to be invalid and/or unconstitutional, such invalidity or unconstitutionality shall not affect, invalidate or nullify the remainder of this act.

Separability of act.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 9, 1939.

CHAPTER 126

An Act Providing for the Acquisition, Purchase, Construction, Reconstruction, Improvement, Betterment, Extension, Operation and Maintenance of Public

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Service by Any City or Town, However Organized; Authorizing and Regulating the Issuance of Revenue Bonds for Financing Such Undertakings; and Providing for the Payment of Such Bonds and the Rights and Recourse of Holders Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Short title of act.

Section 1. **Short Title of Act.** This act may be cited as "The Municipal Revenue Bond Act of 1939".

Definitions.

Section 2. **Definitions.** Whenever used in this act, unless a different meaning clearly appears from the context:

"Undertaking."

(a) The term "undertaking" shall mean any one or a combination of the following: Water, and sewerage systems, together with all parts thereof and appurtenances thereto including, but not limited to, supply and distribution systems, reservoirs, dams, sewage treatment and disposal works.

"Municipality."

(b) The term "municipality" shall include any city or any town, however organized.

"Governing body."

(c) The term "governing body" shall include bodies and boards, by whatsoever names they may be known, having charge of the finances and management of a municipality.

Additional powers of municipalities.

Section 3. **Additional Powers of Municipalities.** In addition to the powers which it may now have, any municipality shall have power under this act: (a) To construct, acquire by gift, purchase, or the exercise of the right of eminent domain, reconstruct, improve, better or extend any undertaking, within or without the municipality, or partially within or partially without the municipality, and to acquire by gift, purchase, or the exercise of the right of eminent domain, lands or rights in land or water rights in connection therewith, (b) to operate and maintain any undertaking and furnish the service, facilities and commodities thereof for its own use and for the use of public and private consumers within or without the territorial boundaries of such municipality, (c) to issue its bonds to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment or exten-

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sion of any undertaking, (d) to prescribe and collect rates, fees, and charges for the services, facilities and commodities furnished by such undertaking, and (e) to pledge to the punctual payment of said bonds and interest thereon an amount of the revenues of such undertaking (including improvements, betterments, or extensions thereto thereafter constructed or acquired) or of any part of such undertaking, sufficient to pay said bonds, and interest as the same shall become due, and to create and maintain reasonable reserves therefor. Such amount may consist of all or any part or portion of such revenue. The governing body of the municipality in determining such cost, may include all costs and estimated costs of the issuance of said bonds, all engineering, inspection, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this act.

Items which may be included in cost of undertaking.

Section 4. **Authorization of Undertaking; Form and Contents of Bonds.** The acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking may be authorized under this act, and bonds may be authorized to be issued under this act by resolution or resolutions of the governing body of the municipality, when authorized by a majority of the taxpayers voting at a special election noticed as provided in Section 538 of the Revised Codes of Montana, 1935, and said special election shall be held not later than the next municipal election held after the council or governing body of the municipality has by resolution or resolutions approved the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking as in this act provided and ordered said special election. Said bonds shall bear interest at such rate or rates not exceeding five per centum per annum, payable semi-annually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may be payable in such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or regis-

Authorization of undertaking.

Form and contents of bonds.

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tered, as such resolution or subsequent resolutions may provide. Said bonds shall be sold at not less than par. Said bonds may be sold at private sale to the United States of America or any agency, instrumentality or corporation thereof. Unless sold to the United States of America or agency, instrumentality or corporation thereof, said bonds shall be sold at public sale after notice of such sale published once at least five days prior to such sale in a newspaper circulating in the municipality and in a financial newspaper published in the City of New York, New York, or the City of Chicago, Illinois, or the City of San Francisco, California. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the governing body may determine may be issued to the purchaser or purchasers of bonds sold pursuant to this act. Said bonds and interim receipts or certificates shall be fully negotiable within the meaning of and for all the purposes of the negotiable instruments law.

Covenants in resolution authorizing issuance of bonds.

Section 5. **Covenants in Resolution Authorizing Issuance of Bonds.** Any resolution or resolutions authorizing the issuance of bonds under this act may contain covenants as to (a) the purpose or purposes to which the proceeds of sale of said bonds may be applied and the use and disposition thereof, (b) the use and disposition of the revenue of the undertaking for which said bonds are to be issued, including the creation and maintenance of reserves, (c) the transfer from the general funds of the municipality to the account or accounts of the undertaking, an amount equal to the cost of furnishing such municipality or any of its departments, boards or agencies with the services, facilities and/or commodities of said undertaking, (d) the issuance of other or additional bonds payable from the revenue of said undertaking, (e) the operation and maintenance of such undertaking, (f) the insurance to be carried thereon and the use and disposition of insurance moneys, (g) books of account and the inspection and audit thereof, and (h) the terms and conditions upon which the holders of said bonds or any proportion of them or any trustee therefor shall be entitled to the appointment of a receiver by the district court, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of said undertaking, operate and maintain the

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same, prescribe rates, fees, or charges, subject to the approval of the public service commission of Montana and collect, receive and apply all revenue thereafter arising therefrom in the same manner as the municipality itself might do. The provisions of this act and any such resolution or resolutions shall be enforceable by any bondholder, by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.

Remedy of bondholder.

Section 6. **Validity of Bonds.** Said bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the municipality issuing the same. The validity of said bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the undertaking for which said bonds are issued. The resolution authorizing said bonds may provide that the bonds shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Validity of bonds.

Section 7. **Lien of Bonds.** All bonds of the same issue shall, subject to the prior and superior rights of outstanding bonds, claims or obligations, have a prior and paramount lien on the revenue of the undertaking, for which said bonds have been issued, over and ahead of all bonds of any issue payable from said revenue which may be subsequently issued and over and ahead of any claims or obligations of any nature against said revenue subsequently arising or subsequently incurred. All bonds of the same issue shall be equally and ratably secured without priority by reason of number, date of bonds, date of sale, date of execution, or date of delivery, by a lien on said revenue in accordance with the provisions of this act and the resolution or resolutions authorizing said bonds.

Lien of bonds.

Section 8. **Bonds not a General Obligation of Municipality.** No holder or holders of any bonds issued under this act shall ever have the right to compel any exercise

Bonds not a general obligation of municipality.

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of taxing power of the municipality to pay said bonds or the interest thereon. Each bond issued under this act shall recite in substance that said bond, including interest thereon, is payable from the revenue pledged to the payment thereof, and that said bond does not constitute a debt of the municipality within the meaning of any constitutional or statutory limitation or provision.

Section 9. **Undertakings to Be Self-supporting.** The governing body of a municipality issuing bonds pursuant to this act shall prescribe and collect reasonable rates, fees or charges for the services, facilities and commodities of such undertaking, and shall revise such rates, fees or charges from time to time whenever necessary so that such undertaking shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and (b) to provide for all expenses of operation and maintenance of such undertaking, including reserves therefor.

Undertakings to be self-supporting.

Section 10. **Use of Revenue.** Any municipality issuing bonds pursuant to this act for the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking shall have the right to appropriate, apply or extend the revenue of such undertaking for the following purposes: (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, (b) to provide for all expenses of operation and maintenance of such undertaking, including reserves therefor, (c) to pay and discharge notes, bonds, or other obligations and interest thereon, not issued under this act for the payment of which the revenue of such undertaking is or shall have been pledged, charged or encumbered, (d) to pay and discharge notes, bonds or other obligations and interest thereon, which do not constitute a lien, charge or encumbrance on the revenue of such undertaking, which shall have been issued for the purpose of financing the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of such undertaking, and (e) to provide a reserve for betterments to such

Use of revenue.

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undertaking. Unless and until adequate provision has been made for the foregoing purposes, no municipality shall have the right to transfer the revenue of such undertaking to its general funds.

Consent of another municipality.

Section 11. **Consent of Another Municipality.** No municipality shall construct an undertaking wholly or partly within the corporate limits of another municipality except with the consent of the governing body of such other municipality.

Consent of state agencies.

Section 12. **Consent of State Agencies.** It shall not be necessary for any municipality proceeding under this act to obtain any certificate of convenience or necessity, franchise, license, permit, or other authorization from any bureau, board, commission or other like instrumentality of the State in order to acquire, construct, purchase, reconstruct, improve, better, extend, maintain and operate an undertaking, but the supervisory powers and duties of the state board of health shall continue as heretofore.

Construction of act.

Section 13. **Construction of Act.** The powers conferred in this act shall be in addition and supplemental to the powers conferred by any other general, special or local law. The undertaking may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended, and bonds may be issued under this act for said purposes, notwithstanding that any general, special or local law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, and extension of a like undertaking, or the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations or other provisions contained in any other general, special or local law, including, but not limited to, any requirement for the approval by the voters of any municipality. Insofar as the provisions of this act are inconsistent with the provisions of any other general, special, or local law, the provisions of this act shall be controlling.

Separability of provisions.

Section 14. **Separability of Provisions.** If any provision of this act, or the application of such provision to any person, body, or circumstance shall be held invalid, the remainder of this act, or the application of such provision to persons, bodies, or circumstances other than those as to which it is held invalid, shall not be affected thereby.

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Repealing clause.

Section 15. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 16. **Time of Taking Effect.** This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

CHAPTER 127

An Act to Create a Division of Industrial Hygiene Within the State Board of Health of Montana, Defining Its Powers and Duties, Requiring the Reporting of Occupational Diseases and Providing for the Inspection of All Places of Employment Where Occupational Diseases May Occur.

Be it enacted by the Legislative Assembly of the State of Montana:

Division of industrial hygiene established.

Section 1. There is hereby created and established within the state board of health of the State of Montana a division of industrial hygiene. The members of the state board of health shall be ex-officio members of such division, and the secretary of the state board of health shall be ex-officio secretary of said division.

Section 2. The division of industrial hygiene shall have the following powers:

Powers.

(1) To make studies of industrial hygiene and occupational disease problems in the industries of Montana;

(2) To keep and maintain complete records of its studies, recommendations and other activities;

(3) To make investigations of the sanitary conditions under which the men and women work in the various industries of the State;

(4) To make and enforce regulations for the correction of unsanitary conditions found;

(5) To report to the industries concerned the findings of such investigations and to work with such industries to remedy unsanitary conditions;

(6) To employ such help as may be necessary to make the investigations and enforce the regulations and as is justified by the appropriation.

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Section 3. The secretary of the division of industrial hygiene is hereby authorized and directed to design and provide suitable blanks for reporting occupational diseases and prepare instructions for their use, and to furnish them free of charge to all registered physicians, medical clinics, hospitals, industrial plants and labor unions who may request them.

Blanks for reporting occupational diseases.

Section 4. Whenever the secretary of the division of industrial hygiene receives a report that there is within the State of Montana a case of occupational disease, or a death caused by occupational disease, he may cause an investigation to be made to determine the authenticity of the report and the cause of the disease.

Investigation of reported case of occupational disease.

Section 5. Once each year and at such other times as is deemed proper, the division of industrial hygiene shall compile statistical summaries of all occupational diseases reported, together with the type of employment leading to the occurrence of such diseases and shall disseminate to all employers of this State instructions and information deemed proper and expedient to prevent the occurrence or recurrence of occupational diseases.

Periodic compilations as to reported occupational diseases.

Section 6. **Occupational Diseases Defined.** An occupational disease, for the purpose of this statute, is an illness of the body which has the following characteristics:

Occupational disease defined.

(1) It arises out of and in the course of the patient's occupation.

(2) It is caused by a frequently repeated or a continuous exposure to a substance or to a specific industrial practice which is hazardous and which has continued over an extended period of time.

(3) It presents symptoms characteristic of an occupational disease which is known to have resulted in other cases from the same type of specific exposure.

(4) It is not the result of ordinary wear and tear of industrial occupation or the general effect of employment or the kind of illness that results from contacts or activities in life outside of the patient's occupational pursuits.

Section 7. From and after the passage and approval of this act, every physician, hospital or clinic superintendent, and the state coal and quartz mine inspectors, having knowledge of a case of occupational disease shall,

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Duty of physicians and others to report cases.

upon request of the secretary of the division of industrial hygiene of the State of Montana, and within ten (10) days after such request, report the same to the division of industrial hygiene of the State of Montana on a form provided by said division, giving the name and address of the patient, the name and business address of the employer or employers, the business of the employer, the place of the patient's employment, the length of time of his employment in the place where he took ill, the nature of the disease, and any other information required by the division of industrial hygiene. All such reports and all records and data of the division of industrial hygiene of the State of Montana pertaining to such diseases are hereby declared not to be public records or open to public inspection, and shall not be admissible as evidence in any action at law or in any hearing under the workmen's compensation act of the State of Montana.

Reports not to be open to public inspection.

Section 8. Any physician, surgeon, hospital or clinic superintendent in charge of a hospital or of clinic records, or any other person required to make such report hereunder, who shall fail to make any report required under the provisions of this act, or who shall wilfully make any false statement in such report, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than five hundred dollars ($500.00).

Penalty.

Repealing clause.

Section 9. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 10. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

CHAPTER 128

An Act to Provide for the Creation of the Montana State Board of Forestry, and to Define Its Powers and Duties; Providing for the Conservation and Protection of All Forest Lands and Resources of the State of Montana; Providing That Owners of Forest Lands Shall Provide Protection Therefor or Pay the Actual Cost of Such Protection Provided by Said Board; Providing Pro-

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cedure for the Assessment and Collection of the Cost of Forest Protection; Providing for the Abatement of Public Nuisances Existing on Forest Lands; Providing Police and Safety Measures for the Prevention of and Protection Against Fire on Forest Lands; Providing for Co-operation With Federal, Public and Private Agencies in Forest Conservation and Protection; and Providing for the Repeal of Sections 1838, 1841, 1842, 2763, 2764, 2767, 2768, 2770, 2775, 2776, 2777, 2778, 2778.1, 2778.2, 2778.3, 2778.4, 6600 and 6601, of the Revised Codes of Montana of 1935, and of All Acts and Parts of Acts in Conflict With This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

State board of forestry created.

Section 1. For the purposes of protection and conservation of forest resources, forest range and water, of regulation of stream flow, and of prevention of soil erosion, and for the further purpose of more adequately promoting and facilitating the cooperation, financial and otherwise, between the State of Montana and all of the public and private agencies with which it is now or later may be associated in such work, there is hereby created the Montana state board of forestry, hereinafter designated as the board. The board shall consist of seven members, who shall be appointed by the governor as follows: One member of the state water conservation board of Montana, during his continuance in such office, designated by such board; the dean of the Montana school of forestry during his continuance in such office; one elector of the State of Montana, appointed upon recommendation of the Blackfoot forest protective association, or its successors; one elector of the State of Montana, appointed upon recommendation of the northern Montana forestry association, or its successors; one elector of the State of Montana, appointed upon recommendation of the Montana lumber manufacturers' association, or its successors; one elector of the State of Montana, appointed upon the joint recommendation of the Montana stock growers' association and Montana wool growers' association, or their successors; and one elector of the State of Montana, appointed upon recommendation of the regional forester of region No. 1 of the United States forest service, as a representative of the United States forest service. The members appointed shall serve for a term

Membership of the board.

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of four years, or during their continuance in office as the case may be. In the event of death, resignation or disqualification of any member of the board, his successor shall be appointed in the same manner that he was appointed, and shall serve for the remainder of his term.

Meetings. The board shall hold two regular meetings each year at the times and places designated by it. The dates of such regular meetings shall be shown in the permanent minute book of the board and notice of the date, time and place of each meeting shall be given in the manner prescribed by the board. The board shall at its first regular annual meeting each year elect a chairman to serve during the ensuing year. The state forester of Montana shall serve as secretary of the said board without

Compensation. compensation for such services or for any work done for the board, other than his regular compensation as state forester of Montana. No compensation shall be paid to any member of the said board by the State of Montana for any services rendered or work done, except that members of the board attending authorized regular or special meetings for transacting official business will be allowed actual expenses in attendance at such meetings. Special meetings may be called in the manner prescribed by the board.

Function of the board

Section 2. It shall be the function of the board to cooperate in an advisory capacity with the state water conservation board and all public and other agencies in the development, protection and conservation of the forest, range and water resources in the State of Montana, and to carry out the specific authorities and duties hereinafter imposed upon it.

Definitions.

Section 3. The following words and phrases used in this act are hereby defined:

"Organized Forest Protective District."

"Organized forest protection district" is defined as a definite forest land area, the boundaries of which are fixed, and wherein, through the medium of an agency recognized by the board, the forest land owners, whether State, county, municipal or private, pay the actual cost of fire protection and fire suppression on a pro rata basis for acreage owned within the district.

"Fire District."

"Fire district" is defined as a subdivision of an organized forest protection district, or a forest area outside the boundaries of an organized forest protection district,

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but adjacent thereto and which can be made a part thereof.

"Recognized agency" is defined as an association of owners of forest lands in an organized forest protection district, organized for the purpose of providing forest protection and fire suppression in such district and financed by the owners in said district, and recognized by the board as giving adequate fire protection to such forest lands in accordance with rules and regulations prescribed by the board. Any public agency administering and protecting forest lands may also be recognized by the board as such an agency. "Recognized agency."

"Forest fire season" is defined as the period of each year beginning on May first and ending on September thirtieth, inclusive; provided, however, that in the event of excessive or great fire danger, the board may expand the said season within any district, or in any part thereof, for not more than thirty extra days, and when so expanded the board shall give such public notice thereof as it may deem necessary. "Forest fire season."

"Forest protection" is defined as the work of prevention, detection and suppression of fire in forest material or on forest land. "Forest protection."

"Owner" is defined as the person, firm, association or corporation having the actual, beneficial ownership of forest land, or timber, other than an easement, right of way, or mineral reservation. "Owner."

Section 4. (a) In any instance where the owner as herein defined does not appear upon the public records as the holder of the legal title to such land or timber, he is nevertheless primarily responsible for the performance of the acts and duties imposed upon him by this act. In addition thereto, the holder of the legal title to such land or timber as it may appear upon the public records is hereby made secondarily responsible for the performance of the acts and duties imposed upon the owner by this act and is subject to the same liabilities and penalties as such owner. Where the owner of the timber is not the owner of the land, the primary responsibility for the performance of the acts and duties imposed by this act shall be upon the owner of the timber.

Actual owner of land or timber primarily responsible.

Holder of legal title secondarily responsible.

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Lands to which act is applicable.

(b) This act shall apply to all forest lands within the State of Montana which shall be officially classified by the board as forest lands for which conservation and fire protection measures are reasonably required.

Powers of the board.

Section 5. To effectuate, accomplish and maintain the purposes of this act, the board is hereby authorized and empowered:

To classify forest areas.

(a) To classify the forest land areas of the State as to forest lands for which conservation and fire protection measures are reasonably required, and to change or modify such classification from time to time as in its judgment shall be proper.

To create fire districts.

(b) To create fire districts in any organized forest protection district upon recommendation thereof by the recognized agency in such district, the creation of such fire districts to be based upon differences in classification as to timber types, fire hazards, and cost of forest protection between such fire districts and other parts of the forest protection district in which the same are situated. When such fire districts are created by the board the assessment upon owners therein for the cost of forest protection as provided for by this act shall be fixed and determined in accordance with such classification.

To provide protection of forest lands.

(c) To provide for the protection of any forest lands by its own organization, or by contract or any other feasible means, independently or in cooperation with any federal, state or other recognized agency or agencies.

To make and enforce rules.

(d) To make and enforce reasonable rules and regulations for the purpose of enforcing and accomplishing the provisions and purposes of this act; provided, however, that such rules and regulations shall not conflict with the powers of the state board of land commissioners.

To cooperate with federal agencies.

(e) To cooperate with the government of the United States and any of its bureaus, services and agencies in accordance with federal statutes and regulations thereunder.

To give technical advice.

Section 6. The board is hereby authorized and empowered to give technical and practical advice to the farmers of the State concerning soil and forest conservation and the establishment and maintenance of woodlots, windbreaks and shelters.

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Duty of board to assist board of land commissioners.

Section 7. The board is hereby directed to assist the state board of land commissioners in the protection, economic development, and use of the state forests and forest land held by the State for the purposes and benefit of the common schools and state institutions.

State considered "owner" as to lands owned by state.

Section 8. Where the State has title to forest lands within any organized forest protection district, it shall be considered as an owner and it shall list its lands and pay the assessments to the recognized agencies responsible for lands in such organized forest protection districts.

Duty of owner of classified forest land.

Section 9. Every owner of forest land classified as such by the board is hereby required to furnish protection against the starting or existence, and to suppress the spread, of fire on such land during the full period of each forest fire season defined by this act. Such protection and suppression shall be in conformity with reasonable rules and standards for adequate fire protection to be prescribed by the board. If such owner does not provide for such protection and suppression, said board may provide the same, at a cost of not less than one cent or more than five cents per acre per annum, and in the event thereof, the owner of such land shall pay to the county treasurer of the county in which such land is situated, the charge for the same approved by the board, in accordance with the provisions of this act.

What constitutes compliance by owner.

Section 10. Every owner of forest lands within an organized forest protection district, while a member of, or while participating in a recognized agency for forest protection shall be deemed to have fully complied with the requirements of Section 9 of this act.

Secretary of the board to determine per acre cost of protection.

Section 11. On or before the first Tuesday in September of each year, the secretary shall determine the actual cost per acre of forest protection furnished and provided by the board in each organized forest protection district, fire district and in all other forest land areas, said cost to be calculated to the end of the preceding fiscal year, June 30. The secretary shall further determine

To determine names of delinquent owners, acreage and amount due.

the names of all owners who shall have failed to provide the forest protection for their lands required by this act, together with the description of such lands and the acreage thereof, and calculate the total amount due to the board from each such owner for such forest protec-

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tion which shall not exceed the maximum hereinbefore specified.

Information to be certified to county clerk and recorder.

The secretary shall submit a statement of the foregoing to the board and upon approval thereof by the board, the secretary shall certify in writing to the county clerk and recorder of each county, the names of such owners of forest lands in his county, together with a description of such lands and a statement of the amount so found to be due and owing by each of such owners to the board for forest protection which shall not exceed the maximum hereinbefore specified.

Amounts due to be collected as taxes.

Upon receiving such certificate from the secretary showing the amounts due, the clerk and recorder shall extend the amounts so certified upon the county tax rolls covering such lands, and such sums shall become obligations of the owner to be paid and collected in the same manner and at the same time and with like penalties as general state and county taxes upon the same property are collected. All sums so collected shall be promptly transmitted to the state treasurer, who is hereby required to deposit the same in a special fund designated the foresters' cooperative work fund, as hereinafter provided for.

Payment under protest.

Section 12. Any owner who is required to pay to the county treasurer any sum for forest protection as required by this act and who contends that he is not legally obligated to pay such sum or some part thereof, shall pay the same to the county treasurer under written protest stating the reasons for such protest. Such payment under protest, and all proceedings subsequent thereto, shall be in conformity with the provisions of the law of the State of Montana, providing for the payment of taxes under protest and action to recover the same. In the hearing and determination of any such action to recover such payment under protest, all questions of the legality and reasonableness of the proceedings of the board may be reviewed and decided.

Amount due for protection to become lien upon land or timber.

Section 13. Whenever the said board provides forest protection during a forest fire season for any forest land or timber not protected by the owner thereof as required by this act, the amount due for such forest protection shall be and become a lien upon such land or timber which shall continue until such time as the amount due

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shall have been paid. Such lien shall have the same force, effect and priority as general tax liens under the laws of the State of Montana, and shall be subject and inferior only to tax liens on such lands. The county attorney of the county in which such land is situated shall on request of the said board foreclose the said lien in the name of the State of Montana and in the manner provided by law, or said county attorney upon the request of the said board, shall institute an action against the forest landowner, in the name of the State, in any district or justice court having jurisdiction, to recover the debt, and the State in such action shall not be required to pay any fees or costs to the clerk of the court or justice of the peace. The complaint and all subsequent proceedings in such action shall conform as nearly as practicable to that provided by Section 2254, Revised Codes of Montana of 1935. The remedies provided by this Section shall be deemed cumulative and shall not affect the other provisions of this act for the payment and collection of amounts due to the board.

Foreclosure of lien.

Section 14. During the forest fire season or any expansion thereof, defined by this act, no person shall ignite or set any forest fire, or slash burning fire, or land clearing fire, or debris burning fire, or any open fire, within any forest lands, without having obtained an official written permit to ignite or set such fire from a fire warden or peace officer authorized by the board to issue such permits for such lands; provided, that no permit shall be required to build, set or ignite a campfire within and upon a designated improved camping ground, or upon a plot of land from which all vegetable and inflammable matter and debris shall have been removed to a point where it may not become ignited by the said campfire or by sparks therefrom.

Setting of forest fires, permit required.

Section 15. Any person who shall fail to extinguish any campfire set or ignited by him within any forest lands before leaving the same, or shall fail to extinguish any campfire used by him or left in his charge, before leaving the same, or who shall negligently allow such fire to spread from the plot described in Section 14, shall be guilty of a misdemeanor.

Failure to extinguish campfire, penalty.

Section 16. Every person to whom a written permit shall have been issued to set or ignite a fire within forest

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lands during the forest protection season defined by this act, shall comply strictly with the provisions of such permit. If such person shall fail to comply with such provisions, or shall leave such fire unattended, or shall leave such fire before it shall have been totally extinguished, or shall negligently allow such fire to spread from or beyond the burning area defined by the said permit, he shall be guilty of a misdemeanor. The board, with the assistance of the state forester, shall prescribe the form and substance of such permit.

Failure to comply with provisions of permit, penalty.

Section 17. During the forest fire season, as defined by this act, any person who shall throw or place any lighted cigarette, cigar, ashes or other flaming or glowing substance or any substance or thing that may cause a fire, in any place where such lighted cigarette, cigar, match, ashes, or other flaming or glowing substance, or other substance or things, may directly or indirectly start a fire in or near any forest material, or throw from a vehicle any lighted cigarette, cigar, ashes or other flaming or glowing substance, or any substance or thing that may cause a fire, shall be guilty of a misdemeanor.

Throwing lighted cigarette, etc., penalty.

Section 18. During the forest fire season, as defined by this act, no person shall use, drive or operate within any forest lands, any wood or coal burning locomotive, logging engine, portable engine, traction engine, or stationary engine, or any coal or wood burning jammer or loader, or internal combustion engine, which is not equipped with a modern, efficient and adequate spark arrester and with modern, efficient devices to prevent the escape of sparks, coals, cinders and other burning material from the smoke stack, fire box, ash pan or exhaust of any such engine, jammer or loader. And it shall be unlawful for any person to operate any such engine, jammer or loader, within any forest lands during any forest protection season, except when such spark arrester and other devices herein defined are efficient, complete and properly installed for the purpose intended.

Operation of wood or coal burning engines without spark arrester forbidden.

Section 19. No sawmill located within or contiguous to forest lands shall accumulate in one pile, sawdust in excess of an amount resulting from the sawing of 500,000 feet log scale of saw logs, provided, however, that a larger sawdust pile may be accumulated when there is no reasonable danger of fire therefrom and a permit for

Restriction as to sawmills.

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the additional accumulation is granted by the state forester. Each sawdust pile so accumulated shall be prepared for burning by cribbing the base of each pile with slabs in accordance with regulations issued by the board of forestry.

Destruction of signs, penalty.

Section 20. Any person who shall destroy, deface, remove, injure, or disfigure any sign, placard, proclamation, order, warning or notice issued by any federal, state, or forest protection agency under the provisions of this act and erected or posted at any point in the State, shall be guilty of a misdemeanor.

Disposition of fines collected.

Section 21. All fines collected in any court of the State under the provisions of this act shall be transferred to the state treasurer for deposit, in, and for the credit of, the foresters' cooperative work fund as hereinafter provided. Whenever a person is convicted in any court of a violation of this act, the court shall have power to levy and collect as costs in such case the amount necessary to compensate the county for the expenditures made in and for the prosecution of such offender against the provisions of this act. Such costs when collected shall be deposited by the court, with the proper county treasurer for the benefit of such county.

Costs.

Board of land commissioners and boards of county commissioners to cooperate.

Section 22. The state board of land commissioners and boards of county commissioners may cooperate with the board to the extent legally permissible, in providing means and methods of safeguarding the forest land lying within the State and in preventing fire nuisance thereon. The state board of land commissioners and the boards of county commissioners may list any forest lands under their jurisdiction with any recognized agency or the board for forest protection. Such moneys as the state and counties shall become liable for under the provisions of this Section shall be paid from any funds provided by law for the protection of the forest lands owned by the State and counties.

Section 23. In compliance with Section 1830.10 of the Revised Codes of Montana, 1935, all moneys received from all public agencies, private agencies and individuals cooperating with the state forester or the board of forestry, shall be deposited with the state treasurer and

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Moneys to be placed to the credit of the foresters' cooperative work fund.

placed to the credit of the foresters' cooperative work fund. The following funds may be expended as directed by the board for fire prevention, detection and suppression: All moneys collected by county treasurers as assessments on forest lands for forest protection; moneys collected for the abatement of public nuisances; all fines collected for the violations of this act; the State's share of the cooperative fire protection funds allocated by the federal government and any other funds provided for the purposes herein indicated. All other cooperative funds collected, appropriated or allocated for the use of the state forester, including funds for the removal of slash hazards resulting from logging or other wood operations on State and private forest lands, those provided for the purpose of helping to maintain the maximum productivity of the forests of the State, those provided for purposes designed to assist the farmers of the State in the establishment of windbreaks and woodlots in localities where such forest plantings are helpful, and funds for other cooperative work, shall not be expended except for the specific purposes for which the same were collected, appropriated or allocated.

Certain funds to be used for specific purposes.

Section 24. All cooperative moneys collected, appropriated, or allocated for the use of the state forester and deposited with the state treasurer in the foresters' cooperative work fund, shall be paid out after approval and request of the said board and all vouchers or claims shall be signed on behalf of the said board by the secretary thereof. The state board of examiners is hereby authorized to approve for payment (out of any moneys available for purposes designated) all claims properly executed and submitted in the manner provided by law to the person, firm, corporation or public or private agency entitled thereto in compliance with the provisions of this act.

Disbursement of moneys in foresters' cooperative work fund.

Section 25. The officers, employees and persons hereinafter designated are hereby declared ex-officio fire wardens to serve without compensation for the purpose of enforcing the penal provisions of this act: Members of the Montana state board of forestry, the state forester and all regular employees of his office, officers of organized forest protection districts, members of the Montana highway patrol, all field officers, in the United States forest service residing in Montana, game and

Ex-officio fire wardens.

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deputy game wardens, officers of the national park service and the Indian service situated in Montana. Such ex-officio fire wardens shall have all the powers vested by Section 1834, Revised Codes of Montana of 1935 in fire wardens.

Powers and duties of the state forester.

Section 26. The state forester shall be the agent of the said board and he shall have power to enforce any and all provisions of this act and the rules and regulations of the board made thereunder. He shall be the representative of the board in organizing forest protection districts to be approved by the said board. He shall be the co-ordinating officer of the board in the co-ordination of the work and efforts of all agencies cooperating with the said board, in the protection of forest land, and in the prevention and abatement of any forest fire nuisances thereon, under the provisions of this act. He shall be the expert adviser of the board and of agencies cooperating with the board and existing under this act, in all matters relating to the creation of forest protection districts, and disposal of slash and slash hazards, the prevention and suppression of forest fires and forest fire nuisances, within forest protection districts. His office shall be the principal place of business of the board and all orders, rules, regulations, maps, documents, publications, minutes of regular and special meetings of the board, notices, forms, correspondence, petitions and all and every paper connected with any part of the official business of the board shall be filed in his office. Such records shall be open to public inspection during business hours subject to such reasonable rules as the board may prescribe in writing for the protection of such records and the convenience of the public and the employees of the state forester.

Penalties for violations of act.

Section 27. Any person who violates any term or provisions of this act, or any rule or regulation promulgated by the board pursuant to this act, is hereby declared to be guilty of a misdemeanor unless otherwise provided by this act, and shall be punished by a fine of not more than five hundred dollars ($500.00) or imprisonment in a county jail for not more than six (6) months, or both such fine and imprisonment.

Purpose of act.

Section 28. It is the intent and purpose of this act not to impose or levy, or cause to be imposed or levied,

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any tax upon the property of any persons. This act is passed and adopted in the exercise of the police power of the State of Montana to conserve and protect the forests and resources of the State as herein provided. All payments required by the act by owners of forest lands are hereby declared to be compensation for benefits actually received by such owners in the protection of their lands as herein provided for.

Validity of act.

Section 29. If any section, subdivision, sentence or clause of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Certain sections of Rev. Codes, 1935, repealed.

Section 30. Sections 1838, 1841, 1842, 2763, 2764, 2767, 2768, 2770, 2775, 2776, 2777, 2778, 2778.1, 2778.2, 2778.3, 2778.4, 6600 and 6601, of the Revised Codes of Montana of 1935, are hereby repealed.

Repealing clause.

Section 31. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 32. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

CHAPTER 129

An Act to Amend Certain Sections of the Public Welfare Act of the State of Montana as Follows:

Subsection (c) of Section III Part I
Subsection (a) of Section VI Part I
Subsection (b) of Section VI Part I
Subsection (h) of Section VII Part I
Subsection (b) of Section IX Part I
Subsection (b) of Section X Part I
Subsection (c) of Section X Part I
Subsection (d) of Section X Part I
Subsection (b) of Section XI Part I
Section XIV Part I
Section XX Part I
Subsection (a) of Section II Part II
Subsection (b) of Section II Part II
Section V Part II

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Section VI Part II
Section IX Part II
Subsection (a) of Section I Part IV
Section VII Part IV
Subsection (e) of Section IV Part VI
Subsection (j) of Section IV Part VI
Section III Part VIII and

to Amend and Renumber Section V Part VIII and to Repeal Section XIII Part II; All of Which Sections and Subsections Belong to Chapter 82, Acts of the Twenty-fifth Legislative Assembly of the State of Montana, Being the Public Welfare Act, All Relating to the General Welfare and the Social Security of the People of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Public welfare act amended.

Section 1. That subsection (c) of Section III of Part I of the public welfare act, be, and it is hereby amended to read as follows:

Authority and duty of board.

"(c) The state board is charged with the authority and duty to exercise general supervision and control over all activities and agencies as provided for in each part of this act.

"The state board shall be limited in function to that of general policy and rules and regulations and all administrative and executive authority, functions and duties shall be vested in the state administrator, subject to the authority of the state board.

Policies, rules and regulations.

"The state board shall be responsible for the adoption of such general policies, rules and regulations as are necessary for the government of the state department, county departments or any of its agencies, *including specific regulations to prohibit political activities by employees of the state and county departments of public welfare.* All such policies, rules and regulations shall conform to the federal social security act, the rules and regulations issued by the federal social security board and also shall conform to the state welfare act, and all policies, rules and regulations so adopted by the state board shall be binding upon the several county departments and county boards of public welfare. *The state department shall establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and com-*

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munications of the state department and the county departments. The use of such records, papers, files and communications by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished."

Part I, Sec. VI amended.

Section 2. That Section VI of Part I of the public welfare act, be, and it is hereby amended to read as follows:

Functions of the administrator.

"(a) The administrator shall be the executive and administrative officer of the state department of public welfare and shall act as secretary of the state board. *Before each regular biennial meeting of the legislative assembly* he shall prepare and submit to the state board *of public welfare* for its *consideration budget estimates* of all funds *required* to be appropriated by the *legislative assembly for the operation of the department during the two next ensuing fiscal years as fiscal years are defined by Section 518, Revised Codes of 1935. These budget estimates shall contain all information necessary for their consideration. After these budget estimates have been considered by the state board of public welfare, but not later than November 1, the administrator shall submit these budget estimates to the state board of examiners with requests for appropriations.*

Biennial budget estimates.

Biennial reports.

"After the close of the fiscal year in each even numbered calendar year, the state administrator shall prepare a report to the governor of the State for the two preceding fiscal years, showing the operations of the department, furnishing information about all its principal activities giving the source and amounts of all funds received and the purposes for which they have been expended. It shall contain such statistical information and supplementary data as the administrator may deem pertinent or the governor may request. The report shall also contain such recommendations for legislation as experience may indicate to be desirable. The report for the period terminating June 30, 1940, shall also include the period between March 1, 1938, and June 30, 1938. The report shall be printed and submitted to the governor not later than October 15. The administrator shall prepare such interim reports as he may deem proper or the governor may require.

Personnel to be appointed on merit system.

"(b) In conformity with the merit system governing the selection and entire status of officers and employees in the state department of public welfare and in all county

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departments of public welfare in the State of Montana, adopted by the state board of public welfare and approved by the social security board, the state administrator shall appoint such other state department and supervisory field personnel as may be necessary for the efficient performances of the activities of *the state department. The administrator shall also supervise the appointment, dismissal and entire status of the public assistance staff attached to the county boards of public welfare in accordance with the merit system.* All state department and county department personnel shall be legal residents of the State of Montana."

Part I, Sec. VII, Sub, Sec. (h) amended.

Section 3. That Subsection (h) of Section VII of Part I of the public welfare act, be, and it is hereby amended to read as follows:

To act as agent of federal government in public welfare matters.

"(h) Act as the agent of the federal government in public welfare matters of mutual concern in conformity with this act and the federal social security act, and in the administration of any federal funds granted to the State to aid in the purposes and functions of the state department.

"Ward Indian," definition.

"The counties shall not be required to reimburse the state department any portion of old age assistance, aid to needy dependent children or aid to needy blind paid to ward Indians. A ward Indian is hereby defined as an Indian who is living on an Indian reservation set aside for tribal use, or is a member of a tribe or nation accorded certain rights and privileges by treaty or by federal statutes. If and when the federal social security act is amended to define a 'ward Indian', such definition shall supersede the foregoing definition."

Part I, Sec. IX, Sub. Sec. (b) amended.

Section 4. That Subsection (b) of Section IX of Part I of the public welfare act, be, and it is hereby amended to read as follows:

Board of county commissioners to be ex-officio county welfare board.

"(b) The board of county commissioners, ex-officio, shall be the county welfare board *and is hereby authorized to devote such additional time for public welfare matters as may be found necessary. The members of the county welfare board* shall receive the same compensation for their services *and the same mileage* when acting as the county board of public welfare as they receive when acting as the board of county commissioners and shall be limited as to

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meetings as now provided by law, *and the compensation and mileage of the members of the board shall be paid from county funds. They may transact business as a board of county commissioners and as a county welfare board on the same day, and in such cases they shall be paid as a board of county commissioners, but shall in no case receive compensation for more than one day's work for all services performed on the same calendar day.*"

Part I, Sec. X, Sub. Sec. (b) amended.

Section 5. That Subsection (b) of Section X of Part I of the public welfare act, be, and it is hereby amended to read as follows:

Staff personnel in counties.

"(b) Each county board shall select and appoint from a list of *qualified persons furnished* by the state department such staff personnel as are necessary. The staff personnel in each county shall consist of at least one qualified staff worker (or investigator) and such clerks and stenographers as may be decided necessary. If conditions warrant, the county board, with the approval of the state department, may appoint *some fully qualified person listed by the state department as supervisor of its staff personnel.* The staff personnel of each county department are directly responsible to the county board, but the state department shall have the authority to supervise such county employees in respect to the efficient and proper performance of their duties. *The county board of public welfare shall not dismiss any member of the staff personnel without the approval of the state department; but the state department shall have the authority to request the county board to dismiss any member of the staff personnel for inefficiency, incompetence or similar cause.*

Salaries and expenses of public assistance staff in counties, source of payment.

"Public assistance staff personnel attached to the county board shall be paid from state public welfare funds, *both their salaries and their actual and necessary traveling expenses, and their necessary subsistence expenses when away from the county seat in the performance of their duties; but the county board of public welfare shall reimburse the state department of public welfare, from county poor funds, one-half of the payments so made to its public assistance staff personnel. All other administrative costs of the county department shall also be paid from county poor funds.*

"On or before the 20th day of the month following the month for which the payments to the public assistance

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staff personnel of the county were made, the state department of public welfare shall present to the county department of public welfare a claim for the required reimbursements. The county board shall make such reimbursements within twenty (20) days after the presentation of the claim and the state department shall credit (add) all such reimbursements to its account for administrative costs."

Part I, Sec. X, Sub. Sec. (c) amended.

Section 6. That Subsection (c) of Section X of Part I of the public welfare act, be, and it is hereby amended to read as follows:

Field supervisors and auditors.

"(c) County departments shall be under the supervision of such field supervisors and *subject to audit by such* field auditors as may be appointed for this purpose by the state department. Such field supervisors shall be direct representatives of the state department in maintaining personal contact, supervision and advisory services between the state department and the county department, *and such field auditors shall likewise be direct representatives of the state department in maintaining personal contact between the state department and the county department."*

Part I, Sec. X, Sub. Sec. (d) amended.

Section 7. That Subsection (d) of Section X of Part I of the public welfare act, be, and it is hereby amended to read as follows:

Grants by county welfare board.

"(d) *The county welfare board shall make all grants and changes in grants, based on the needs of each applicant as recommended after investigation by the staff worker, in accordance with the standards of assistance and the rules and regulations prescribed by the state department."*

Part I, Sec. XI, Sub. Sec. (b) amended.

Section 8. That Subsection (b) of Section XI of Part I of the public welfare act, be, and it is hereby amended to read as follows:

Per capita and millage tax to be levied by county commissioners.

"(b) It is hereby made the duty of the board of county commissioners in each county to *levy the per capita tax of two dollars ($2.00), and the six (6) mills for the county poor fund as provided by law, or so much thereof as may be necessary,* and to budget and expend so much of the funds in the county poor fund for all purposes of this act as will enable the county welfare department *to pay the general relief activities of the county and* to meet its proportionate share of *old age assistance, aid to needy de-*

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pendent children, aid to needy blind and its proportionate share of any other welfare activity that may be carried on jointly by the State and the county. The county budget shall make separate provision for each one of these public assistance activities, and proper accounts shall be established for the funds for all of such activities. The number of mills to be levied for the county poor fund shall be fixed and determined in the manner provided by law.

Preliminary budget to be mailed to administrator.

"As soon as the preliminary budget provided for in Section 4613.3 of the Revised Codes of 1935 has been agreed upon, a copy of so much thereof as applies to the county poor fund shall without delay be mailed to the state administrator of public welfare and he shall have the right, at any time before the final adoption of the budget, to make such recommendations with regard to changes in any part of the budget relating to the county poor fund as is deemed necessary in order to enable the county to discharge all its obligations under the public welfare act.

Restriction as to use of county poor fund.

"No part of this fund shall be used directly or indirectly for the erection or improvement of any county building, so long as the fund is needed for general relief expenditures by the county, or is needed for paying the county's proportionate share of old age assistance, aid to needy dependent children, aid to needy blind, or its proportionate share of any other welfare activity that may be carried on jointly by the State and the county."

Part I, Sec. XIV, amended.

Section 9. That Section XIV of Part I of the public welfare act, be, and it is hereby amended to read as follows:

"Section XIV. **Power to Make Contracts.**

"The state board is empowered to enter into contracts and leases with the United States of America, its instrumentalities, or its agencies, or any thereof, to carry out any of the purposes set forth in this act and may in such contracts or leases authorize the United States, its instrumentalities or agencies, or any thereof, to exercise such supervision over any property belonging to the state board, or any matter or thing the subject of said contract or lease, as it may be required by the United States, its instrumentalities, or its agencies, or any thereof, until such time as any money expended, advanced or loaned by the said United States, its instrumentalities, or agencies, and agreed to be repaid thereto by the state board shall have

Power to make contracts.

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been fully repaid. It is the purpose and intent of this act that the state board shall be authorized and empowered to accept cooperation from the United States of America, its instrumentalities and agencies in all matters deemed necessary by the state board to carry out the purposes of this act, and the state board shall have full power to do all things necessary in order to avail itself of such aid, assistance and cooperation under federal legislation heretofore or hereafter enacted by congress or under any proclamation or order of the executive, or of any executive department or agency, of the United States, now or hereafter promulgated or made.

State board restricted as to use of state funds.

"The state board of public welfare shall not use any state funds, directly or indirectly, for sponsoring projects, (except projects for the improvement of property owned or leased by the state department of public welfare), for such undertakings as the grading or improvement of streets, alleys and highways; the building of bridges; the erection, alteration, *or repair of public buildings; the improvement of parks or boulevards; irrigation and water conservation projects or similar undertakings. The state board of public welfare shall have no authority whatever to contribute, directly or indirectly, any state funds in any form or manner to projects of this nature except to projects for the improvement of property owned or leased by the state department of public welfare."*

Part I, Sec. XX, amended.

Section 10. That Section XX of Part I of the public welfare act, be, and it is hereby amended to read as follows:

Reports and records.

"Each county department shall keep such records and make such reports and in such detail as the state department may from time to time require, and shall transmit to the state department upon its request copies of applications and any or all other records pertaining to any case. The state department is hereby authorized and directed to keep such records, in such form and containing such information, as the federal social security board may from time to time require, and comply with such provisions as the federal board may from time to time find necessary to assure the correctness and verification of such reports."

Part II, Sec. II, Sub. Sec. (a), amended.

Section 11. That Subsection (a) of Section II of Part II of the public welfare act, be, and it is hereby amended to read as follows:

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Residence required for eligibility for general relief.

"(a) An applicant to be eligible for general relief, *hereafter entering the State,* must have resided in the State of Montana for a period of *one* year, six months *or more* of which must be in the county *where he makes* application *for relief. When a person has gained residence in a county making him eligible for general relief, he shall retain this residence until residence has been gained in some other county in the State; and such new residence shall only be gained by living continuously in such county for six months or longer. If a person is absent from the State voluntarily and continuously for a period of one year or more, he shall thereby be ineligible for general relief in the State of Montana."*

Part II, Sec. II, Sub. Sec. (b), amended.

Section 12. That Subsection (b) of Section II of Part II of the public welfare act, be, and it is hereby amended to read as follows:

Eligibility for assistance.

"(b) *An applicant for assistance including medical care and hospitalization shall be eligible to receive assistance only after investigation by the county department reveals that the income and resources are insufficient to provide the necessities of life, and assistance shall be provided to meet a minimum subsistence compatible with decency and health."*

Part II, Sec. V, amended.

Section 13. That Section V of Part II of the public welfare act, be, and it is hereby amended to read as follows:

Relief disbursements.

"All relief disbursements by county departments of public welfare shall be by warrant or check; provided, however, that if *the county welfare department finds* that a recipient is in the habit of dissipating relief allowances instead of using them for the purposes intended, *or that for any other reason it is better for the recipient and his family to receive the allowance through disbursing orders, then disbursing orders shall be used instead of cash payments; but all such disbursing orders must be written in such form that the goods and merchandise to be provided may be furnished by any regular dealer in such goods and merchandise within the county. It is further provided, however, that if the county has work available which an applicant for general relief is capable of performing, then the county department of public welfare may require the applicant to perform such work at the prevailing rate of*

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wages to be paid from the county poor fund in place of granting him general relief."

Section 14. That Section IX of Part II of the public welfare act, be, and it is hereby amended to read as follows:

Part II, Sec. IX, amended.

"Section IX. **Grants From State Funds to Counties.**

Grants from state funds to counties.

"If the whole of a six mill levy together with the whole of the per capita tax authorized by said Section 4465.4, Revised Codes of 1935, and the income to the county poor fund from all other sources shall prove inadequate to pay for the general relief in the county actually necessary and to meet the county's proportionate share of old age assistance, aid to needy dependent children, aid to needy blind and its proportionate share of any other welfare activity that may be carried on jointly by the State and the county; and if warrants upon the county poor fund can no longer lawfully be issued to meet these charges; and if the board of county commissioners is unable to declare an emergency for the purpose of providing additional funds or to provide additional funds from any other source; and if the county has in all respects expended the county poor fund only for lawful purposes; and if all of these conditions actually exist in any county of the State, then the state department of public welfare shall, insofar as it has funds available, come to the assistance of such county, in the following manner:

"(a) When the county in question has submitted proof to the state board of public welfare through such reports as it may require and through other evidence that may be deemed necessary, that these conditions exist, then the state board may authorize the state administrator to issue a check to the county treasurer of the county for general relief purposes, and the county department of public welfare shall make the disbursements of these state funds for general relief purposes within the county. These grants-in-aid from the state department may be used for any relief activity lawfully conducted by the county, including medical aid, hospitalization and institutional care; but no part thereof may be used, directly or indirectly, to pay for the erection or improvement of any county building or for furniture, fixtures, appliances or equipment for any such building.

Use of grants-in-aid.

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County commissioners to adopt an emergency budget.

"Immediately upon receiving notice that such grant-in-aid has been made by the state department, it shall be the duty of the board of county commissioners to adopt an emergency budget in accordance with the provisions of Section 4613.6 but without being required to publish any notice of intention to adopt such emergency budget or to hold a hearing thereon. This emergency budget shall appropriate the whole amount of the general relief grant from the state department for the various classes of expenditures from the poor fund for which the grant-in-aid was made by the state department. The money received through such general relief grant from the state department shall be placed in a special poor fund account kept separate and distinct from the poor fund accounts arising under the original poor fund budget, and all expenditures from this special poor fund account shall be made by a separate series of warrants or checks.

A county audit required, when.

"(b) In the case of a county that is unable to meet its proportionate share of old age assistance, aid to needy dependent children, aid to needy blind and its proportionate share of any other welfare activity that may be carried on jointly by the State and the county, the state department of public welfare shall in addition to proofs required for making a general relief grant also require an audit by the state examiner's office. If this audit proves to the satisfaction of the state board of public welfare that a county is unable to reimburse the state department for its proportionate share of these forms of assistance, then the state board of public welfare shall cause full entries of its findings to be made on its minutes showing the name of the county concerned and the amount of each class of reimbursement that the county is unable to make to the state department. The state administrator of public welfare shall thereupon notify the county concerned of the action taken.

"(c) In the event that a county is found to be eligible to receive aid under the provisions of this Section, and the said county is unable to issue bonds or register warrants by reason of being beyond its constitutional limit of indebtedness, the administrator of the state board is directed to make grants to such county in advance of the month for which such grant is to be distributed by the county in payments, after due consideration has been given various factors such as the amount of the grant requested by the

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county, the number of individual payments to be made and the number of recipients receiving aid through other governmental agencies. The board of county commissioners of such county shall, not less than ten (10) days before the end of the month preceding the month for which the grant is requested, make formal written application to the state department of public welfare for such grant, stating the amount needed and such other facts pertinent to the application."

Application by county commissioners for aid.

Section 15. That Section VI of Part II of the public welfare act, be, and it is hereby amended to read as follows:

Part II, Sec. VI, amended.

"Section VI. **Medical Aid and Hospitalization.**

"Medical aid and services and hospitalization for persons unable to provide such necessities for themselves are hereby declared to be the legal and financial duty and responsibility of the board of county commissioners, payable from the county poor fund. It shall be the duty of the board of county commissioners to make provision for competent and skilled medical or surgical services as approved by the state board of health or the state medical association, or in the case of osteopathic practitioners by the state osteopathic association or chiropractors by the state chiropractic association. 'Medical' or 'medicine' as used in this act refers to the healing art as practiced by licensed practitioners."

Medical aid and hospitalization.

Section 16. That Section XIII of Part II of the public welfare act, be, and it is hereby repealed.

Part II, Sec. XIII, repealed.

Section 17. That Subsection (a) of Section I of Part IV of the public welfare act, be, and it is hereby amended to read as follows:

Part IV, Sec. I, Sub. Sec. (a), amended.

"(a) The term 'dependent child' means a child under the age of sixteen who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt, in a place of residence maintained by one or more of such relatives as his or their own home.

"Dependent child," definition.

"If and when the federal social security act is amended to define the term 'dependent child' as a child under the

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age of eighteen years, then the term 'dependent child' hereinabove defined shall mean a child under the age of eighteen years.''

Part IV, Sec. VII, amended.

Section 18. That Section VII of Part IV of the public welfare act, be, and it is hereby amended to read as follows:

"Section VII. **County Share of Participation.**

County share of participation.

"Each county department shall reimburse the state department in the amount of one-half of the approved aid to dependent children grants after the share provided by the federal government is deducted to persons in the county each month. Such reimbursements shall be credited to the aid to dependent children account of the state department.

Decrease in reimbursement by counties in case of increase in federal aid.

"If and when the federal grant for aid to dependent children is increased from 33-1/3% of the total payments to 50% of the total payments, the reimbursement from each county department to the state department of public welfare shall be decreased to 16-2/3% of the total payments. If the federal grant is increased by some other percentage, the percentage added to the federal grant shall be deducted from the percentage of reimbursement to be made by the counties. These reimbursements shall be credited to the aid to dependent children account of the state department as heretofore.''

Part VI, Sec. IV, Sub. Sec. (e), amended.

Section 19. That Subsection (e) of Section IV of Part VI of the public welfare act, be, and it is hereby amended to read as follows:

"(e) Make provision for establishing and strengthening child welfare services, *including protective services and for care of children in family foster homes. When funds are available for that purpose, the child welfare division shall have the right to make agreements for the payment of compensation for keeping children in family foster homes subject to the approval of the state department.''*

Care of children in family foster homes.

Part VI, Sec. IV, Sub. Sec. (j), amended.

Section 20. That Subsection (j) of Section IV of Part VI of the public welfare act, be, and it is hereby amended to read as follows:

"(j) Accept the guardianship or custody of children committed by the courts to the state department and arrange for their care in family foster homes or otherwise in cooperation with county departments of public welfare.''

Children committed by courts.

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Section 21. That Section III of Part VIII of the public welfare act, be, and it is hereby amended to read as follows: Part VIII, Sec. III, amended.

"Section III. **Method of Disbursement.**

"The state department of public welfare shall disburse all public assistance grants and costs of administration as provided for in each part of this act *and all other expenditures authorized to be made by the department. The funds appropriated shall be made available for such disbursements in the following manner:* Method of disbursement.

"From the appropriations made, the state department of public welfare shall as soon as it finds that it needs the money, be provided with an imprest fund *for each quarter of each fiscal year ordinarily not exceeding one-fourth of the appropriation made for the fiscal year; provided, however, that for good cause shown a larger portion than one-fourth of the appropriation for the fiscal year may be included in the imprest fund for any quarter. Any unexpended balance of the imprest fund made available for one quarter and remaining unexpended at the end of such quarter shall remain available for the use of the department for the succeeding quarter. The state department shall be responsible and liable to the State for all funds so received, and the department may divide the funds received among such specific accounts as it may deem necessary or desirable to establish.* Imprest fund.

"In order to obtain money for the imprest fund, the department shall present claims to the state board of examiners; upon being approved by the state board of examiners and presented to the state auditor, the state auditor shall issue his warrant or warrants, and upon the receipt of such warrant or warrants the state treasurer shall disburse the amounts allowed to the state department of public welfare. Claims against imprest fund.

"The state department shall establish and maintain a bank account or accounts properly safeguarded by the deposit of such securities as may be used by depositories as security for funds under the control of the state treasurer, and these securities shall be subject to the approval of the state examiner and the state board of public welfare. This account or accounts shall be subject to *checks or* orders drawn by the state department for the payment of Bank accounts, how safeguarded.

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assistance grants, *the* cost of administration of the state and county departments *and for all other expenditures authorized to be made by the department.*

Appropriations to be made available.

"The appropriations made for the period beginning with March 2, 1939, and terminating with June 30, 1939, shall be made available through the method above indicated as rapidly as the state department finds that the funds are needed.

"When any of the said funds are deposited in any bank or banks pursuant to the foregoing provisions and securities have been deposited to safeguard these deposits as above required, and the securities have been approved by the state examiner and by the state board of public welfare, the state department of public welfare and all its officers and employees shall be released from any liability to the State for any loss that might occur through the failure of the bank to repay such funds so deposited or any part thereof up to the full amount of the securities deposited."

Part VIII, Sec. V, renumbered and amended.

Section 22. That Section V of Part VIII of the public welfare act shall be renumbered as Section IV, and is hereby amended to read as follows:

"Section IV. **Transfer of Funds From Specific Accounts.**

Transfer of funds from specific accounts.

"Any money appropriated or earmarked for any specific account *or purpose not needed for such account or purpose may be transferred by the state board of public welfare to any other account or purpose under the authority of the state department of public welfare. This transfer shall be effective and be deemed completed when the state board of public welfare has entered an order for such transfer upon its minutes and the state auditor has been notified of the action taken."*

Repealing clause.

Section 23. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Effective date.

Section 24. This act shall be in full force and effect from and after its passage and approval by the governor.

Approved March 9, 1939.

CHAPTER 130

An Act to Amend Sections 3156, 3157, 3159, 3162, 3166 and 3167 of the Revised Codes of Montana, 1935; All

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Relating to the Regulation of the Practice of Optometry and to Prevent Ignorant, Unprofessional or Incompetent Persons From Practicing Same.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3156, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3156, R. C. 1935, amended.

"Section 3156. **Provisions Regulating Practice of Optometry.** It shall be unlawful for any person:

Provisions regulating the practice of optometry.

"Subdivision 1. To practice optometry in the State of Montana unless he shall first have obtained a certificate of registration, in the manner hereinafter provided, and filed the same or a certified copy thereof with the *county clerk and recorder* of the county of his residence, excepting such persons who at the present time are regularly registered optometrists and possess a valid, unrevoked certificate of registration; or

"Subdivision 2. To sell or barter, or offer to sell or barter any certificate of registration issued by the state board of optometry; or

"Subdivision 3. To purchase or procure by barter any such certificate of registration with intent to use the same as evidence of the holder's qualification to practice optometry; or

"Subdivision 4. To alter with fraudulent intent in any material regard such certificate of registration; or

"Subdivision 5. To use or attempt to use any such certificate of registration which has been purchased, fraudulently issued, counterfeited or materially altered as a valid certificate of registration; or

"Subdivision 6. To practice optometry under a false or assumed name; or

"Subdivision 7. To wilfully make any false statement in a material regard in any application for an examination before the state board of optometry or for a certificate of registration; or

"Subdivision 8. *To advertise by displaying a sign or by otherwise holding himself out to be an optometrist with-*

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out having at the time of so doing a valid unrevoked certificate of registration; or

Provisions regulating the practice of optometry.

"Subdivision 9. To replace or duplicate ophthalmic lenses with or without a prescription or to dispense ophthalmic lenses from prescriptions, without having at the time of so doing a valid, unrevoked certificate of registration as an optometrist; provided, however, that the provisions hereof shall not be construed so as to prevent an optical mechanic from doing the merely mechanical work upon such lenses; or

"Subdivision 10. To take or make any measurements for the purpose of fitting or adapting ophthalmic lenses to the human eye, without having at the time of so doing a valid, unrevoked certificate of registration; and any person who shall take or make any measurements or use any mechanical device whatsoever for such purpose or who shall in the sale of spectacles or eye glasses or lenses use, in the testing of the eyes therefor, lenses other than the lenses actually sold, shall be deemed to be practicing optometry within the meaning thereof; *provided, that nothing in this Section shall apply to the prescriptions of qualified optometrists or oculists when sent to a recognized optical house.*

"Subdivision 11. To advertise at a price, or any stated terms of such a price, or as being free, any of the following: The examination or treatment of the eyes; the furnishing of optometrical services, or the furnishing of a lens, lenses, glasses, or the frames or fitting thereof.

"The provision of this Subdivision does not apply to the advertising of goggles, sun-glasses, colored glasses, or occupational eye protective devices, provided the same are so made as not to have refractive values and are not advertised in connection with the practice of optometry or of any professional service."

Sec. 3157, R. C. 1935, amended.

Section 2. That Section 3157, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Examiners in optometry.

"Section 3157. **Examiners in Optometry.** A board is hereby created to be known as the Montana state board of examiners in optometry, hereinafter designated the board of examiners, which shall consist of three members appointed by the governor. *The board shall have power to*

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make rules and regulations for the conduct, business and procedure of the board and for the regulation, conduct, supervision and procedure governing all applicants for certificates of registration as optometrists and the practice of optometry not inconsistent with the provisions of this act. No person shall be eligible to appointment who is not a registered optometrist of the State of Montana and actually engaged in the *exclusive* practice of optometry in the State of Montana during the term of his office. Each of the members shall hold office for a term of six years or until his successor is appointed and qualified and shall be so classified that one member of said board shall retire every two years. The present members of the Montana state board of examiners in optometry shall continue to serve and act as members of the state board of optometry, but under the provisions of this act, during their respective terms or until their successors are appointed and qualified. The members of said board, before entering upon their duties, shall respectively take and subscribe to the oath required to be taken by other state officers, which shall be administered by the secretary of state, and filed in his office; and said board shall have a common seal. Appointments to fill vacancies caused by death, resignation or removal shall be made for the residue of such term by the governor."

Term of office.

Section 3. That Section 3159, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3159, R. C. 1935, amended.

"Section 3159. **Examinations—Admission to Practice Non-residents.**

"Subdivision 1. *The board of examiners shall make rules and regulations relative to and governing the qualifications of all applicants for certificates of registration as optometrists not inconsistent with the provisions of this act and if the applicant does not meet the requirements of such rules and regulations then the applicant will not be eligible to take an examination to practice optometry in this State. If the applicant meets the requirements of such rules and regulations said applicant before beginning to practice optometry in this State must pass an examination given by and conducted before said board of examiners.* All examinations shall be practical in character and designated to ascertain the applicant's fitness to practice the

Board to make rules as to qualifications of applicants.

Examinations.

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profession of optometry and shall be conducted in the English language. The board shall, from time to time, publish and distribute the examination requirements for a certificate to practice optometry in the State of Montana.

Eligibility.

"Subdivision 2. No person shall be eligible to take said examination who is not 21 years of age, and who is not a citizen of the United States of America, and who is not of good moral character.

Schooling required.

"Subdivision 3. On and after July 1st, 1925, no person shall be eligible to take said examination unless he shall have certificates of graduation from an accredited high school and from a school of optometry wherein the practice and science of optometry is taught in a course of study covering *eight* semesters, or *four* years, of actual attendance *and which school has a recognized standing with the international association of boards of examiners in optometry*. In lieu of said certificates of graduation an applicant for examination may, with like effect, furnish an affidavit that he has practiced optometry exclusively for a period of at least six years in some other state or states.

Application and fee for examination.

"Subdivision 4. Every person desiring to be examined in optometry shall file an application in the manner prescribed by said board at least four weeks before the examination shall be held, and a fee of twenty-five dollars ($25.00) shall accompany said application.

Fee, upon passing examination.

"Subdivision 5. Every person successfully passing said examination shall be registered in the board register, which shall be kept by the secretary of said board, and upon the payment of a fee of ten dollars ($10.00) shall receive a certificate of registration signed by the members of said board.

Passing grade established.

"Subdivision 6. In case an applicant for a certificate of registration has been admitted to practice optometry in any state, and has secured an average of seventy-five per cent (75%) in his examination in such other state, he may, in the discretion of the said board, be granted a certificate to practice his profession in Montana, without examination, upon his payment of all fees, provided the state from which said applicant comes offers equal privileges to applicants for certificates of registration from this state."

Sec. 3162, R. C. 1935, amended.

Section 4. That Section 3162, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

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"Section 3162. **Registration of Certificate in County.** Recipients of said certificate of registration shall present the same for record to the *county clerk and recorder* of the county in which they reside, and shall pay a fee of *one dollar ($1.00)* to the *county clerk and recorder* for recording same. Said *county clerk and recorder* shall record said certificate in a book to be provided by him for that purpose. Any person so licensed, removing his residence from one county to another in this State, shall, before engaging in the practice of optometry in such other county, obtain from the *county clerk and recorder* of the county in which said certificate of registration is recorded a certified copy of such record, or else obtain a new certificate of registration from the board of examiners, and shall before commencing practice in such county, file the same for record with the *county clerk and recorder* of the county to which he removes, and pay the *county clerk and recorder* thereof, for recording the same, *a fee of one dollar ($1.00).* Any failure, neglect, or refusal on the part of any person holding such certificate or copy of record to file the same for record, as hereinbefore provided, for six months after the issuance thereof, shall forfeit the same. Such board shall be entitled to a fee of one dollar ($1.00) for the reissue of any certificate and the *county clerk and recorder* of any county shall be entitled to a fee of one dollar ($1.00) for making and certifying the copy of the record of any such certificate."

Registration of certificate in county.

Section 5. That Section 3166, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3166, R. C. 1935, amended.

"Section 3166. **Revocation of Certificate for Cause.** Said board shall have the power to revoke any certificate of registration granted by it under this act for conviction of crime, habitual drunkenness, contagious or infectious disease, gross immorality, gross ignorance or inefficiency in his profession, or for unprofessional conduct. Unprofessional conduct shall mean: Obtaining any fee by fraud or misrepresentation; *employing directly or indirectly any suspended or unlicensed optometrist to perform any work covered by this act; directly or indirectly accepting employment to practice optometry from any person not having a valid, unrevoked certificate of registration as an optometrist, or accepting employment to practice optometry from any company or corporation, or accepting employ-*

Revocation of certificate for cause.

"Unprofessional conduct," what is.

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ment to practice optometry for any company or corporation; permitting another to use his certificate of registration; soliciting or sending a solicitor from house to house; treatment or advice in which untruthful or improbable statements are made; professing to cure disease; advertising in which ambiguous or misleading statements are made; the use in advertising of the expression "eye specialist" or "specialist on eyes" in connection with the name of an optometrist; provided, that this act shall not prohibit legitimate or truthful advertising by any registered optometrist and provided that before any certificate shall be revoked, the holder thereof shall have notice in writing of the charge or charges against him, and, at a day specified in said notice, at least ten days after the service thereof, be given a public hearing, and have opportunity to produce testimony in his behalf, and to confront the witness against him. Any person whose certificate has been revoked may appeal to the courts or may after the expiration of ninety days apply to have the same re-granted and the same shall be re-granted him upon a satisfactory showing that the disqualification has ceased."

Sec. 3167, R. C. 1935, amended.

Section 6. That Section 3167, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 3167. **Penalty for Violations.** Any person who shall violate any of the provisions of this act *or the rules and regulations of the state board of examiners* shall be decreed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than two hundred dollars ($200.00) and not more than five hundred dollars ($500.00), or by imprisonment in the county jail not exceeding *six (6) months,* or by both fine and imprisonment as the court may determine. All fines thus received shall be paid into the *treasury of the board.*"

Penalty for violation of act.

Repealing clause.

Section 7. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 8. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

CHAPTER 131

An Act Creating a Veterans' Memorial Fund Commission; Providing for the Appointment and Compensation of

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Commissioners; Defining Duties of the Commission; Providing for the Commission's Control of the Veterans' Memorial Fund; Providing for the Construction and Maintenance of a Veterans' Memorial Building.

Be it enacted by the Legislative Assembly of the State of Montana:

Veterans' memorial fund commission created.

Section 1. There is hereby created a veterans' memorial fund commission consisting of five (5) persons to be appointed by the governor. One (1) shall be appointed from a list of five (5) names submitted by the United Spanish War Veterans, of Montana. One (1) shall be appointed from a list of five (5) names submitted by the Veterans of Foreign Wars, of Montana. One (1) shall be appointed from a list of five (5) names submitted by the American Legion, of Montana. One (1) shall be appointed from a list of five (5) names submitted by the Disabled American Veterans, of Montana. The fifth shall be appointed from a list of four (4) names submitted by the other four (4) members of the commission. One (1) of said persons shall be appointed for a period of one (1) year from and after the first day of May, 1939, and one (1) for a period of two (2) years from and after the first day of May, 1939, and one (1) for a period of three (3) years from and after the first day of May, 1939, and one (1) for a period of four (4) years from and after the first day of May, 1939, and the fifth member appointed from the list of names submitted by the other four (4) commissioners shall serve for one (1) year from and after the first day of May, 1939. The successors to the commissioners appointed from lists submitted by the United Spanish War Veterans, of Montana, Veterans of Foreign Wars, of Montana, American Legion, of Montana, and Disabled American Veterans, of Montana, shall be appointed for terms of four (4) years and shall be appointed from a list of five (5) names submitted by the organization represented by the appointee whose term is to expire. The successor to the fifth member appointed from a list of four (4) names submitted by the other four (4) commissioners shall be appointed annually from a list of four (4) names submitted by the other four (4) commissioners. The members of the commission shall at their first meeting after their appointment and on or before the first day of June of each year thereafter elect one (1) of their number chairman of the commission, shall adopt a seal for the

Appointment of members.

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commission, and make such rules for the administration of their office not inconsistent with this act as they may deem expedient, and they may thereafter amend or abrogate such rules. Three (3) of the members of the commission shall constitute a quorum to do business, and the concurrence of at least three (3) members of the commission shall be necessary to render a choice or decision by the commission. Each member of said commission shall receive as compensation for services the sum of eight ($8.00) dollars per diem and actual travel expenses while engaged in work authorized by the commission. The veterans' memorial fund commission shall hereinafter be referred to as the commission.

Commission to have control of veterans' memorial fund.

Section 2. The veterans' memorial fund heretofore created shall be placed under the exclusive control and jurisdiction of said commission which is empowered to expend said fund and the accruals thereto for the construction and maintenance of a veterans' memorial building, and the necessary expenses of the commission.

Veterans' memorial building, provisions for its construction.

Section 3. It shall be the duty of the commission to have constructed as soon as said commission deems feasible, a veterans' memorial building on state owned land adjacent to the state capitol at Helena, Montana, and plainly identify said building as the "veterans' memorial building". The commission is by this act empowered to enter into agreements, contracts, or arrangements for the purpose of securing aid from an agency or agencies of the United States, and secure plans and estimates, and let contracts for the construction of the veterans' memorial building. The commission is empowered to receive and accept gifts, devises and bequests which will in no manner affect the identity of the veterans' memorial building.

Commission may adopt rules.

Section 4. Said commission may in writing adopt rules and regulations not inconsistent with this act for the care and management of the veterans' memorial building.

Warrants, how drawn.

Section 5. Warrants shall be drawn on the veterans' memorial fund in payment of claims approved by the veterans' memorial fund commission.

Separability of act.

Section 6. Each section of this act and every part of each section is hereby declared to be independent of each other, and the holding of any section or part hereof to be void or ineffective for any cause shall not be deemed to affect any other section or part hereof.

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Section 7. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 8. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 9, 1939.

CHAPTER 132

An Act Relating to Libraries and Providing for the Creation of Joint County or Regional Libraries, the Manner of Their Creation, the Method by Which Funds Shall Be Handled, Providing for a Board of Trustees, the Manner in Which Expenditures May Be Made; and Providing That the Counties Shall Levy a Tax for the Support of Said Library.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Two (2) or more counties, by action of their boards of county commissioners, may join in establishing and maintaining a joint county or regional library under the terms of a contract to which all will agree. The expenses of the joint county or regional library shall be apportioned between or among the counties concerned on such a basis as shall be agreed upon in the contract. The treasurer of one of the counties, as shall be provided in the contract, shall have the custody of the funds of the joint county or regional library; and the treasurers of the other counties concerned shall transfer quarterly to him all moneys collected for the "free library fund" in their respective counties. If the board of county commissioners of any county decides to withdraw from a joint county or regional library contract, the county shall be entitled to a division of property in the same proportions as expenses were shared. Any library district organized under the provisions hereof, may, by majority vote of the qualified voters present and voting at a legal meeting of either of the counties which comprise said district, dissolve its cooperative existence. Provisions for establishing and maintaining joint county or regional libraries.

Section 2. When a joint county or regional library shall have been established, the legislative body of any government unit therein that is maintaining a library

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may decide, with the concurrence of the board of trustees of its library, to participate in the joint county or regional library; after which, beginning with the next fiscal year of the county, the governmental unit shall participate in the joint county or regional library and its residents shall be entitled to the benefits of the joint county or regional library, and property within its boundaries shall be subject to taxation for joint county or regional library purposes. A governmental unit participating in the joint county or regional library may retain title to its own property, continue its own board of library trustees, and may levy its own taxes for library purposes; or, by a majority vote of the qualified electors, a governmental unit may transfer, conditionally or otherwise, the ownership and control of its library, with all or any part of its property, to another governmental unit which is providing or will provide free library service in the territory of the former, and the trustees or body making the transfer shall thereafter be relieved of responsibility pertaining to the property transferred.

Participation by other government unit maintaining libraries in library district.

Section 3. In a joint county or regional library district the board of five trustees shall be appointed by the joint action of all the county commissioners in the district. The first appointments or elections shall be for terms of one (1), two (2), three (3), four (4), and five (5) years respectively, and thereafter a trustee shall be appointed or elected annually to serve for five (5) years. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen. A trustee shall not receive a salary or other compensation for services as trustee, but necessary expenses actually incurred shall be paid from the library fund. A library trustee may be removed only by vote of the legislative body.

Board of trustees and their appointment.

Section 4. After a joint county or regional library shall have been established or library service contracted for, the legislative body of the governmental unit for which the library was established or the service engaged, shall appropriate money annually for the support of the library and so far as possible, the taxes levied and collected for this purpose shall be levied and collected within the territory to be served. The board of trustees shall have the exclusive control of expenditures from the fund subject to any examination of accounts required by the

Government unit to make annual appropriation and levy taxes for support of library.

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State and money shall be paid from the fund only upon vouchers of the board of trustees, without further audit. The board shall not make expenditures or incur indebtedness in any year in excess of the amount of money appropriated and available for library purposes.

Commissioners to levy equivalent tax.

Section 5. The board of county commissioners of each county that has joined in the establishment of a joint county or regional library as provided for in this act shall annually levy a tax equivalent to the tax which may be levied for a county library as provided in Section 4568, Revised Codes of Montana, 1935.

Qualifications of librarian.

Section 6. The librarian of a joint county or regional library shall have the qualifications required by Montana law for county librarians and shall come under the same minimum salary regulation.

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1939.

CHAPTER 133

An Act Authorizing the Issuance of Bonds of the State of Montana to Refund Capitol Building Bonds of Said State and Held by the State Board of Land Commissioners, and Providing for the Payment Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Board of examiners authorized to issue state bonds to refund capitol building bonds held by state board of land commissioners.

Section 1. The state board of examiners is hereby authorized and empowered to issue and sell bonds of the State of Montana, payable in lawful money of the United States, in an amount sufficient to pay, refund and redeem all capitol building bonds heretofore issued by the State of Montana and held by the state board of land commissioners as investments of trust funds under the administration of said board. The proceeds from such sale shall be deposited in the treasury of the State of Montana and credited to the "capitol building refunding bonds sinking and interest fund" and shall be used exclusively for the payment of said outstanding capitol building bonds and interest thereon.

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Interest rate and other terms.

Section 2. Said bonds shall bear interest at a rate not exceeding four per centum (4%) per annum, payable semi-annually. The bonds shall be either amortization or serial bonds, shall bear such date as the state board of examiners shall prescribe and shall be payable over such period of years, not exceeding twenty (20), that the said board of examiners may specify. All bonds shall be optional and redeemable five (5) years after the date of issue and on any interest payment date thereafter at the option of the state board of examiners. The said bonds shall be in such denominations and form and shall contain such recitals as the state board of examiners may determine, shall be signed by the governor, the attorney general, the secretary of state and the members of said board, and shall be payable at the office of the state treasurer of the State of Montana. The coupons attached to said bonds may bear the facsimile signatures of the members of said board.

Taxes to be levied for payment of bonds.

Section 3. There shall be and there is hereby levied annually upon all property in the State of Montana subject to taxation, an ad valorem tax on each dollar of the taxable valuation of such property, sufficient in amount to pay the principal and interest on said bonds as the same become due and payable, which tax when collected shall be placed by the state treasurer in a fund to be known as the "capitol building refunding bonds sinking and interest fund", and used for the payment of the principal and interest of such bonds and for no other purpose; which tax shall be computed against the different classes of taxable property on the percentage value thereof for taxation purposes as such percentage may be provided by law. All of the income from all lands granted by the congress of the United States to the State of Montana for public buildings at the state capitol shall be placed in the "capitol building refunding bonds sinking and interest fund" to be applied in payment of the principal and interest of such bonds. The state board of equalization shall hereafter and between the first and second Monday in August of each year, ascertain and determine the amount required to pay the principal and interest on said bonds becoming due during the then current fiscal year and the amount of money standing to the credit of the "capitol building refunding bonds sinking and interest fund" and applicable to the

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payment of interest and principal of said bonds during the then current fiscal year, and after deducting such amount from the amount required to be paid as such principal and interest during the then current fiscal year, shall calculate, determine and fix a rate of tax levy sufficient to produce the balance of the amount, if any, required to pay such principal and interest becoming due and payable during the then current fiscal year. The state board of equalization shall annually and before the second Monday in August, certify such tax levy as calculated and determined by such board to the county clerks of the several counties of the state, and such county clerks shall compute such taxes and enter the same on the assessment books, and such taxes shall be collected and transmitted by the county treasurer in the same manner as other taxes for state purposes are collected and transmitted.

Sale of the bonds.

Section 4. The said bonds shall be sold by the state board of examiners at such time, in such manner and in such amounts as the said board shall deem for the best interests of the state in carrying out the purpose for which the issuance of the said bonds is authorized, provided that such bonds shall not be sold for less than par plus accrued interest to date of delivery of the bonds. The bonds or any part thereof may be exchanged for outstanding capitol building bonds and in such case the state board of examiners shall fix the rate of interest which the refunding bonds shall bear, not exceeding four per centum (4%) per annum, and each institution or fund holding any part of the said capitol building bonds shall receive refunding bonds equal in amount to the par value of the outstanding bonds plus the interest accrued thereon up to the date of the new bonds. If the refunding bonds are offered for sale they shall be sold at open competitive bidding.

Registration of bonds.

Section 5. Each of said refunding bonds shall be registered before delivery with the state treasurer of the State of Montana who shall keep accurate accounts of payments of interest and principal upon said bonds.

Appropriation for expense of bond issue.

Section 6. There is hereby appropriated from the general fund of the State of Montana, not otherwise appropriated, a sum not exceeding fifteen hundred dollars ($1,500.00) for the purpose of paying the expense incident to the issuance and sale of said bonds.

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Budget act not controlling.

Section 7. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Effective date.

Section 8. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

CHAPTER 134

An Act to Amend Section 4728 of the Revised Codes of Montana of 1935, Relating to County and Other Officers, Election Thereof, Term of Office, Qualifications, Vacancies—How Filled and Consolidation of County Offices by the Board of County Commissioners of Any County, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4728, R. C. 1935, amended.

Section 1. That Section 4728 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 4728. **County and Other Officers, When Elected and Term of Office.** *There shall be elected in each county the following county officers who shall possess the qualifications for suffrage prescribed by the constitution of the State of Montana, and such other qualifications as may be prescribed by law:*

County and other officers, when elected and term of office.

One county clerk who shall be clerk of the board of county commissioners and ex-officio recorder; one sheriff; one treasurer, who shall be collector of the taxes; provided, that the county treasurer shall not be eligible to his office for the succeeding term; one county superintendent of schools; one county surveyor; one assessor; one coroner; one public administrator. Persons elected to the different offices named in this section shall hold their respective offices for the term of four (4) years, and until their successors are elected and qualified.

The county attorneys, county auditors, and all elective township officers, must be elected at each general election as now provided by law. The officers mentioned in this

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act must take office on the first Monday of January next succeeding their election, except the county treasurer, whose term begins on the first Monday of March next succeeding his election.

Vacancies, how filled.

Vacancies in all county, township and precinct offices, except that of county commissioners, shall be filled by appointment by the board of county commissioners, and the appointee shall hold his office until the next general election; provided, however, that the board of county commissioners of any county may, in its discretion, consolidate any two or more of the within named offices and combine the powers and the duties of the said offices consolidated; however, the provisions hereof shall not be construed as allowing one (1) office incumbent to be entitled to the salaries and emoluments of two (2) or more offices; provided, further, that in consolidating county offices, the board of county commissioners shall, six (6) months prior to the general election held for the purpose of electing the aforesaid officers, make and enter an order, combining any two (2) or more of the within named offices, and shall cause the said order to be published in a newspaper, published and circulated generally in said county, for a period of six (6) weeks next following the date of entry of said order."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

CHAPTER 135

An Act Permitting the Joinder of Parties Plaintiff in Actions for the Cancellation of or Quieting Title Against Oil and/or Gas Leases.

Be it enacted by the Legislative Assembly of the State of Montana:

Joinder of plaintiffs in action for cancellation of oil and/or gas lease or quieting title.

Section 1. In an action for the cancellation of an oil and/or gas lease or leases, or quieting title against the claims thereunder, two or more plaintiffs may join in a single action against a common lessee and any one claim-

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ing by, through or under such lessee, as an assignee or otherwise. In the complaint in such action the cause or causes of action of each plaintiff shall be set forth separately and there shall be designated the lease or leases, or claims, or interests sought to be cancelled or quieted. It shall be no defense to such an action that the lands of the plaintiffs are non-contiguous or that there is a lack of mutuality of interest between the plaintiffs in the subject of the action or in the relief sought, and the decree in such action shall specify the lease, leases, claims or interests cancelled or quieted.

Procedure is cumulative.

Section 2. This procedure shall be in addition to and not in substitution of any existing remedies now allowed by law.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1939.

CHAPTER 136

An Act Relating to Hours of Work of Members of the Paid Fire Departments of Cities of the Second Class, Providing a Minimum Compensation for Members of Paid Fire Departments of Cities of the Second Class; Providing Penalties for the Violation Thereof; and Providing for, in Addition to a Paid Fire Department, a Volunteer Fire Department and Repealing All Acts or Parts of Acts in Conflict Therewith and Amending Chapter 200 of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Hours of work of members of paid fire department in second class cities.

Section 1. The city council, city commission, or other governing body in cities of the second class, shall divide all members of the paid fire department into platoons of three shifts. The members of each shift shall not be required to work or be on duty more than eight (8) hours of each consecutive twenty-four hours, except in the event of a conflagration or other similar emergency when such members or any of them may be required to serve so long as the necessity therefor exists. Each mem-

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ber shall be entitled to at least one (1) day off duty out of each eight-day period of service without loss of compensation.

Section 2. There shall be paid to each member of the fire department of cities of the second class of the State of Montana a minimum wage for a daily service of eight (8) consecutive hours work of at least one hundred forty and no/100 dollars ($140.00) per month for the first year of service, and thereafter of at least one hundred forty and no/100 dollars ($140.00) per month, plus one dollar ($1.00) per month for each additional year of service up to and including the tenth (10th) year of such additional service, it being hereby expressly declared the purpose and intent of this act to fix the minimum wage of members of the fire department of said cities of the second class of the State of Montana at the sum of one hundred forty and no/100 dollars ($140.00) per month and to increase said compensation annually thereafter at the rate of not less than one dollar ($1.00) per month for each additional year of active service after the first year thereafter rendered by them, not exceeding ten (10) years of such service after the first year. Provided, that a new fireman, that is, a *paid* fireman when he is first employed shall for the first six (6) months following his employment be on probation during which time his pay shall be one hundred ten and no/100 dollars ($110.00) per month, thereafter, if he is still employed, his salary shall be one hundred forty and no/100 dollars ($140.00) per month plus one dollar ($1.00) per month for each additional year of service up to and including the tenth year of such additional service.

Minimum compensation.

Proviso.

Section 3. *In addition to a paid department, the city council, city commission or other governing body in cities of the second class may make provision for a volunteer fire department in addition to the paid fire department which said volunteer fire department shall be exempt from obligations in this act set out as applying to the paid department. Likewise shall the city commission or governing department be exempted as to compliance with this act insofar as the same may pertain to the said volunteer fire department by way of penalties and infringements; a volunteer being described as one who is an enrolled member of the volunteer fire department and assists the paid fire department; who is eligible to serve only on the*

Volunteer fire department.

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board of trustees of the fire department relief association of such city, provided not more than three volunteer members are on said board of trustees, but who shall not be entitled to receive a "service pension". The governing body of said city may, at its discretion, pay an enrolled volunteer fireman the minimum of one dollar ($1.00) for attending a fire, and a minimum of one dollar ($1.00) for each hour or fraction of an hour after the first hour in active service at said fire, or returning any or all equipment to its proper place.

Compensation on per-hour basis.

Volunteer to act under supervision of chief of paid fire department.

Section 4. *In the attending of fires any volunteer shall act and serve under the supervision of the chief of the paid fire department.*

Violation of act deemed a misdemeanor, penalty.

Section 5. **Violation of This Act Shall Be Deemed a Misdemeanor; Penalty.** Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred ($100.00) dollars, or more than six hundred ($600.00) dollars, or by imprisonment in the county jail for not less than thirty (30) days or more than seven (7) months, or by both such fine and imprisonment.

Separability of act.

Section 6. If any clause, sentence, section, paragraph or part of this act shall for any reason, be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, section, paragraph or part directly adjudged to be invalid and inoperative.

Repealing clause.

Section 7. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 8. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 9, 1939.

CHAPTER 137

An Act to Amend Section 3, Section 4, Section 7, Section 8, Section 14 and Section 19 of Chapter 137 of the Session Laws of the Twenty-fifth Legislative Assembly

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of Montana, Being the "Unemployment Compensation Law", Entitled an Act Providing for Unemployment Compensation; Creating a State Unemployment Compensation Commission; Establishing an Unemployment Compensation Fund and Providing for the Administration, Distribution and Investment Thereof; Providing for the Assessment and Collection of Contributions Upon Pay Rolls of Employers; Creating a State Employment Service and Providing an Appropriation Therefor; Providing Penalties for Violations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3 of Chapter 137 of the Session Laws of the twenty-fifth legislative assembly of Montana, 1937, be, and the same is, hereby amended to read as follows:

Sec. 3, Chap. 137, laws of 1937, amended.

"BENEFITS

Section 3. (a) **Payment of Benefits.** Thirty (30) months after the date when contributions first accrue under this act from the employer, benefits shall become payable from the fund to any individual who thereafter is or becomes unemployed and eligible for benefits as is herein prescribed; *provided, however, that wages earned for services performed as an employee representative as defined in the railroad unemployment insurance act (52 Stat. 1094), or for services performed for an employer, as defined in said act, shall not be included for the purposes of determining eligibility or weekly benefit amount under this act with respect to any benefit year commencing on or after July 1, 1939, nor shall any benefits with respect to unemployment occurring on and after July 1, 1939, be payable on the basis of such wages under any provisions of this act.* All benefits shall be paid through public employment offices in the State of Montana, *or other agencies designated by the commission,* in accordance with such rules and regulations as the commission may prescribe.

Payment of benefits.

(b) **Weekly Benefit Amount for Total Unemployment.** Each eligible individual, who is totally unemployed (as defined in this act) in any week, shall be paid with respect to such week, benefits at the rate of *four per cent (4%) of his total wages in employment for employers in the quarter of his base period wherein his earnings were highest, if a multiple of a dollar, or computed to the next*

Weekly benefit, amount for total unemployment.

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higher multiple of a dollar, but not more than fifteen dollars ($15.00) per week, nor less than five dollars ($5.00) per week.

Wage record.

(c) Wage Record. The commission shall maintain a record of the wages earned by an individual in accordance with wages earned by him for employment by employers during each quarter.

Duration of benefits.

(d) **Duration of Benefits.** *The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed sixteen (16) times his weekly benefit amount."*

Sec. 4, Ch. 137, laws of 1937, amended.

Section 2. That Section 4 of Chapter 137, Session Laws of Montana, 1937, be, and the same is, hereby amended to read as follows:

"BENEFIT ELIGIBILITY CONDITIONS

Benefit eligibility conditions.

Section 4. An unemployed individual shall be eligible to receive benefits with respect to any week only if the commission finds that—

(a) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the commission may prescribe, *except that the commission may, by regulation, prescribe that such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this act, provide for registration and reporting for work by mail or through other governmental agencies.*

(b) He has made a claim for benefits in accordance with the provisions of Section 6 (a) of this act.

(c) He is able to work, and is available for work.

Waiting period.

(d) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of *two (2)* weeks. No week shall be counted as a week of total unemployment for the purposes of this Subsection:

(1) If benefits have been paid with respect thereto;

(2) Unless the individual was eligible for benefits with respect thereto in all respects except for the requirements of Subsections (b) and (c) of this Section;

(3) Unless it occurs within the thirteen (13) consecutive weeks preceding the week for which he claims benefits,

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provided that this requirement shall not interrupt the payments of benefits for consecutive weeks of unemployment; and provided further, that any individual who, prior to the first day of his benefit year, shall have accumulated such *two (2)* waiting period weeks, shall not be required to accumulate more than *two (2)* additional waiting period weeks during his ensuing benefit year.

(4) Unless it occurs after benefits first could become payable to any individual under this act.

(e) He has within the base period earned wages for employment by employers equal to thirty (30) times his weekly benefit amount.''

Section 3. That Section 7 of Chapter 137, Session Laws of Montana, 1937, be, and the same is, hereby amended to read as follows: Sec. 7, Ch. 137, laws of 1937, amended.

"CONTRIBUTIONS

Section 7. (a) **Payment.**

(1) On and after January 1, 1937, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages payable for employment (as defined in this act) occurring during such calendar year. Such contributions shall become due and be paid by each employer to the commission *for the fund in accordance with such regulations as the commission* may prescribe and shall not be deducted, in whole or in part, from the wages of individuals in his employ. Contributions, payment of.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(b) **Rate of Contributions.**

(1) Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment: Rate of contributions.

(a) One and eight-tenths per centum with respect to employment during the calendar year 1937;

(b) Two and seven-tenths per centum with respect to employment during the calendar years 1938, 1939, 1940, 1941, *and for each calendar year thereafter.*

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Study of merit rating.

(c) Study of Merit Rating. The commission shall investigate and study the operation of this act and the actual experience hereunder with a view to determining the advisability of establishing a rating system which would equitably rate the unemployment risk and fix the contribution to the fund of each employer or industry and would encourage the stabilization of employment. The commission shall submit their report and recommendations to the governor and the legislature not later than January 1, 1945."

Sec. 8, Ch. 137, laws of 1937, amended.

Section 4. That Section 8 of Chapter 137, Session Laws of Montana, 1937, be, and the same is, hereby amended to read as follows:

"PERIOD, ELECTION AND TERMINATION OF EMPLOYER'S COVERAGE

Period, election and termination of employer's coverage.

Section 8. (a) Any employing unit which is or becomes an employer subject to this act within any calendar year, shall be subject to this act during the whole of such calendar year.

(b) Except as otherwise provided in Subsection (c) of this Section an employing unit shall cease to be an employer subject to this act only as of the first day of January, of any calendar year, only if it files with the commission prior to the *last day of February*, of such year, a written application for termination of coverage, and the commission finds that there were no twenty (20) different days, each day being in a different week within the preceding calendar year within which such employing unit employed one (1) or more individuals in an employment subject to this act, *and the total wages payable for employment by said employer in the preceding calendar year did not exceed $500.00.* For the purposes of this Subsection, the two or more employing units mentioned in paragraph (2) or (3) of Section 19 (i) shall be treated as a single employing unit.

(c) An employing unit not otherwise subject to this act, which files with the commission its written election to become an employer subject hereto for not less than two (2) calendar years, shall, with the written approval of such election by the commission become an employer subject hereto to the same extent as all other employers as of the date stated in such approval, and shall cease to be

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subject hereto as of January 1, of any calendar year, subsequent to such two (2) calendar years only if at least thirty (30) days prior to said first day of January it has filed with the commission a written notice to that effect.

Any employing unit for which services that do not constitute employment as defined in this act, are performed may file with the commission, a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this act for not less than two (2) calendar years. Upon the written approval of such election by the commission, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1, of any calendar year subsequent to such two (2) calendar years only if at least thirty (30) days prior to such first day of January such employing unit has filed with the commission a written notice to that effect."

Written approval.

Section 5. That Section 14 of Chapter 137 Session Laws of Montana, 1937, be, and the same is, hereby amended to read as follows:

Sec. 14, Ch. 137, laws of 1937, amended.

"COLLECTION OF CONTRIBUTIONS

Section 14. (a) **Interest on Past Due Contributions.** Contributions unpaid on the date on which they are due and payable, as prescribed by the commission, shall bear interest at the rate of 1 per centum per month from and after such date until payment plus accrued interest is received by the commission. Interest collected pursuant to this Subsection shall be paid into the unemployment compensation fund.

Interest on past due contributions.

(b) **Collection.** If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the commission, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this Section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all

Collection.

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other civil actions except petitions for judicial review under this act and cases arising under the workmen's compensation law of this State.

Priorities under legal dissolutions or distributions.

(c) **Priorities Under Legal Dissolutions or Distributions.** In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this State, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than $250.00 to each claimant, earned within six months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act, *contributions then or thereafter due shall be entitled to priority of payment as a debt due the sovereign power as provided by the bankruptcy act of June 22, 1938 (Chap. 575-52 Stat. 840).*

Refunds.

(d) **Refunds.** If not later than *three (3)* years after the date on which any contributions or interest thereon became due, an employer who has paid such contributions or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made, and the commission shall determine that such contributions or interest or any portion thereof was erroneously collected, the commission shall allow such employer to make an adjustment thereof, without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made the commission shall refund said amount, without interest, from the fund. For like cause and within the same period adjustment or refund may be so made on the commission's own initiative."

Sec. 19, Ch. 137, laws of 1937, amended.

Section 6. That Section 19 of Chapter 137, Session Laws of Montana, 1937, be, and the same is, hereby amended to read as follows:

"DEFINITIONS

Definitions.

Section 19. As used in this act, unless the context clearly requires otherwise:

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(a) (1) "Annual payroll", means the total amount of wages payable by an employer (regardless of the time of payment) for employment during a calendar year. "Annual payroll."

(2) "Average annual payroll", means the average of the annual payrolls of an employer for the last three or five preceding calendar years, whichever average is higher. "Average annual payroll."

(b) "Benefits", means the money payments payable to an individual, as provided in this act, with respect to his unemployment. "Benefits."

(c) "Base period", means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year. "Base period."

(d) "Benefit year", with respect to any individual means, the fifty-two (52) consecutive-week period beginning with the date of filing of a valid claim by said individual, and thereafter the fifty-two consecutive-week period beginning with the date of the next valid claim filed after the termination of his last preceding benefit year. "Benefit year."

(e) "Calendar quarter", means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding however, any calendar quarter or portion thereof which occurs prior to January 1, 1937, or the equivalent thereof as the commission may by regulation prescribe. "Calendar quarter."

(f) "Commission", means the unemployment compensation commission established by this act. "Commission."

(g) "Contributions", means the money payments to the state unemployment compensation fund required by this act. "Contributions."

(h) "Employing unit", means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes "Employing unit."

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of this act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

(i) "Employer" means:

"Employer." (1) Any employing unit which for some portion of a day in each of 20 different weeks, whether or not such weeks are or were consecutive within either the current or the preceding calendar year, has or had in employment, one or more individuals (irrespective of whether the same individuals are or were employed in each such day); *and whose total annual pay roll within either the current or the preceding calendar year, exceeds the sum of five hundred dollars ($500.00).*

(2) Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

(3) Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this act) and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit would be an employer under paragraph (1) of this Subsection;

(4) Any employing unit which, having become an employer under paragraph (1), (2) or (3) has not, under Section 8, ceased to be an employer subject to this act; or

(5) For the effective period of its election pursuant to Section 8 (c) any other employing unit which has elected to become fully subject to this act.

"Employment." (j) (1) "Employment" subject to other provisions of this Subsection means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term "employment" shall include an individual's entire service, performed within or both within and without this state if:

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"Employment."

(A) The service is localized in this State; or

(B) The service is not localized in any state but some of the service is performed in this State and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(3) Service not covered under paragraph (2) of this Subsection, and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this State and the commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

Service localized, when.

(4) Service shall be deemed to be localized within a state if—

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the commission that:

(A) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract and in fact; and

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

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(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

"Employment" —what excluded.

(6) The term "employment" shall not include:

(A) Agricultural labor;

(B) Domestic service in a private home;

(C) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(D) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(E) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(F) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions;

(G) Service performed in the employ of any other state or its political subdivisions, or of the United States Government, or of an instrumentality of any other state or states or their political subdivisions or of the United States.

(H) Service with respect to which unemployment compensation is payable under and unemployment compensation system established by an act of congress; provided, that the commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of congress, which agreements shall become effective ten days after publication thereof in the manner in Section 11 (b) of this act for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such act of congress, or who have, after acquiring potential

Proviso.

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rights to unemployment compensation under such act of congress, acquired rights to benefits under this act.

(k) "Employment office", means a free public employment office, or branch thereof, operated by this State or maintained as a part of a state-controlled system of public employment offices. "Employment office."

(l) "Fund", means the unemployment compensation fund established by this act, to which all contributions required and from which all benefits provided under this act shall be paid. "Fund."

(m) "Total unemployment";

(1) An individual shall be deemed "totally unemployed" in any week during which he performs no services and with respect to which no wages are payable to him. "Total unemployment."

(2) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the commission may by regulation otherwise prescribe.

(3) *As used in this Subsection the term "wages" shall include only that part of remuneration for odd jobs or subsidiary work, or both, which is in excess of five dollars ($5.00) in any one week, and the term "services" shall not include that part of odd jobs or subsidiary work, or both, for which remuneration equal to or less than five dollars ($5.00) per week is payable.*

(n) "State" includes, in addition the states of the United States of America, Alaska, Hawaii, and the District of Columbia. "State."

(o) "Week", means such period of seven consecutive calendar days, as the commission may by regulations prescribe. "Week."

(p) "Unemployment compensation administration fund", means the unemployment compensation administration fund established by this act, from which administrative expenses under this act shall be paid. "Unemployment compensation administration fund."

(q) "Wages", means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. The reasonable cash value of remuneration payable in any medium other than cash, shall be esti- "Wages."

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mated and determined in accordance with rules prescribed by the commission.

"Weekly benefit amount."

(r) "Weekly benefit amount". An individual's "weekly benefit amount", means the amount of benefits he would be entitled to receive for one week of total unemployment.

Repealing clause.

Section 9. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 10. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

CHAPTER 138

An Act to Amend Section 4630.12 of the Revised Codes of Montana, of 1935, Prescribing the Qualifications of Persons Entitled to Vote at County Bond Elections, for Closing of Registration Books and for Preparation of Lists of Qualified Electors and Poll Books.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4630.12, R. C. 1935, amended.

Section 1. That Section 4630.12 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Who are entitled to vote.

"4630.12. **Who Are Entitled to Vote.** *In all county bond elections hereafter held only qualified registered electors residing within the county, who are taxpayers upon property therein and whose names appear upon the last completed assessment roll for state, county and school district taxes, shall have the right to vote. Upon the adoption of the resolution calling for the election, the county clerk must cause to be published in the official newspaper of the county a notice, signed by him, stating that registration for such bond election will close at noon on the fifteenth day prior to the date for holding such election and at that time the registration books shall be closed for such election. Such notice must be published at least ten (10) days prior to the day when such registration books will be closed.*

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After the closing of the registration books for such election the county clerk shall promptly prepare lists of the registered electors of such voting precinct, who are taxpayers upon property within the county and whose names appear on the last completed assessment roll for state, county and school district taxes, and who are entitled to vote at such election, and shall prepare poll books for such election, as provided in Section 568 of the Revised Codes of Montana for 1935, and deliver the same to the judges of election prior to the opening of the polls. It shall not be necessary to publish or post such list of qualified electors.''

County clerk to prepare lists of electors.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 9, 1939.

CHAPTER 139

An Act to Improve the Marketability of Municipal Bonds by Providing for Examination by the Attorney General and a Limitation on Actions Thereon.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The governing body of any school district, county, city or town shall submit a certified copy of all proceedings preliminary to such issue to the attorney general, together with such other proceedings, certificates and records as he may require, and request his report as to examination and validity.

Proceedings to be submitted to attorney general.

Section 2. It is hereby made the duty of the attorney general to examine certified copies of all proceedings preliminary to the issuance of bonds by any school district, county, city or town, which may be submitted to him for such examination, and if found regular and valid he shall deliver to the recording officer of such municipality a report of his examination and determination as to the validity of such bonds. A certified copy of such report shall be filed with the officer required

Duty of attorney general to deliver report as to validity of municipal bonds.

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by law to register said bonds and a notation thereof shall be entered in the bond register.

Limitation of action to test validity of bonds.

Section 3. No municipal bond of any issue whereof the preliminary proceedings have been submitted to and approved by the attorney general, shall be held invalid because of any defect or failure to comply with any statutory provision relating to the authorization, issuance or sale of said bonds, unless an action to contest the validity thereof shall be brought within thirty days after the date of sale.

Purpose and separability of act.

Section 4. This act is intended to improve the marketability of bonds issued by school districts, counties, cities or towns, in order that said bonds may be sold upon the most favorable terms, and if any section, sub-section, sentence, clause or phrase is for any reason held unconstitutional such decision shall not affect the validity of the remaining portions of the act, provided, they are sufficient to carry out the purposes as herein expressed.

Applicability and effective date of act.

Section 5. This act shall be in full force and effect from and after its passage and approval, and shall apply to all bonds whether authorized before or after the passage of this act.

Approved March 9, 1939.

CHAPTER 140

An Act to Permit Payment of Delinquent Installments on Certificates of Purchase of State Lands Without Paying Penalty Interest, Providing Such Installments Be Paid on or Before December 1, 1940.

Be it enacted by the Legislative Assembly of the State of Montana:

Payment of delinquent installments without penalty interest permitted until Dec. 1, 1940.

Section 1. From and after the passage and approval of this act, any holder of a certificate of purchase of state lands under which any installments are delinquent shall be permitted to pay such delinquent installment or installments without the payment of any penalty interest thereon. Such payment must be made on or before the first day of December, 1940, and if not made on or before said date, then payment thereof can be made only by payment of such installment or installments with accrued penalty interest as now provided by law.

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Section 2. The provisions of Section 1 hereof shall apply to payments of delinquent installments by persons applying under the provisions of Section 1805.89, Revised Codes of Montana, 1935, for reinstatement of a canceled certificate of purchase, and application for such reinstatement of any canceled certificate may be made within six (6) years of such cancellation, if made during the period of operation of this act as set forth in Section 1 hereof. Reinstatement of canceled certificate of purchase.

Section 3. It shall be the duty of the commissioner of state lands to mail notice to holders of certificates of purchase of state lands upon which any installment or installments are delinquent and to any persons who held certificates of purchase of state lands which are canceled, if the lands embraced therein have not been resold, to their last known address, advising them of their rights and the amount of delinquent installments, under the provisions of this act, within sixty (60) days from and after its passage and approval. Notice to holders of delinquent certificates.

Section 4. If any section, sub-section, sentence, clause or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislative assembly declares that it would have passed this act and each section, sub-section, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, sub-section, sentence, clause or phrase be declared unconstitutional, the same being necessary to the welfare of the State of Montana and the political subdivisions thereof by reason of the existence of an extraordinary emergency. Separability of act.

Section 5. This act shall be in full force and effect from and after its passage and approval. Effective date.

Section 6. This act stays the operation of all acts and parts of acts in conflict herewith until the first day of December, 1940, but does not otherwise affect such acts or parts of acts. Act stays conflicting acts.

Approved March 11, 1939.

CHAPTER 141

An Act to Amend Section 1805.88, Revised Codes of Montana, 1935, and Relating to Default in Payment of

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Installments on Certificate of Purchase of State Lands, Providing for the Conversion and Renewal of Existing Contracts for the Repurchase of State Lands and Relating to the Reinstatement of Canceled Certificates of Purchase.

Be it enacted by the Legislative Assembly of the State of Montana:

Certificate of purchase in certain cases, may be converted into amortization contract.

Section 1. Whenever a certificate of purchase of state lands embracing lands received from the United States through the enabling act or embracing lands acquired by the State through its farm mortgages is in default six (6) years or less and subject to cancellation by reason of such default, the owner of such certificate, his assignees, heirs or devisees may make application to the state board of land commissioners to have the contract evidenced by such certificate of purchase converted into a thirty-three year amortization purchase contract to draw interest at the rate of five per centum (5%) per annum as provided in this act.

Certain terms and conditions in discretion of board of land commissioners.

Section 2. The state board of land commissioners may require the payment of whatever portion of the delinquent penalty and interest and unpaid principal may be deemed proper and just and the balance of the entire sum due and owing the State shall be included in the contract to which the existing contract is converted. The said board may in its discretion permit delinquent interest and penalty interest to be included in the new contract together with the remainder of the unpaid purchase price under the existing contract. The board shall at all times do what in its judgment appears to be for the best interests of the State in carrying out the provisions of this act.

Reinstatement of canceled certificate, limitation.

Section 3. Whenever a certificate of purchase has been canceled and annulled as provided by law, the owner, his assignee, heir or devisee may within six (6) years after the cancellation and annulment of such certificate of purchase make application to the state board of land commissioners for the reinstatement of such certificate, and if the lands have not been resold the board may in its discretion reinstate such certificate upon the payment of at least the oldest delinquent installment on such certificate together with interest thereon. Before the certificate of purchase shall be reinstated evidence

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must be produced showing that the taxes on the said lands have been paid at least as far as the installments on the certificate of purchase have been paid to the State. After the reinstatement of such certificate the owner thereof, his assignee, heir or devisee may apply to the state board of land commissioners to have the said certificate converted into a thirty-three year amortization contract as provided in Section 1 and Section 2 of this act.

Conversion into amortization contract.

Section 4. That Section 1805.88, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 1805.88, R. C. 1935, amended.

"Section 1805.88. **Default in Payment of Purchase Price—Cancellation of Certificate.** Whenever any purchaser of state land hereafter sold, or the assignee, shall default for a period of thirty (30) days or more in the payment of any of the installments due on his certificate of purchase, the certificate shall be subject to cancellation and the board shall cause to be mailed to him at his last known postoffice address a notice of default and pending cancellation which notice shall give him sixty (60) additional days from the date of mailing such notice in which to make payment of the delinquent installment or installments with penalty interest. If he fails to make such payment within that period the certificate of purchase shall from that date and without further notice be null and void, the duplicate of the certificate in the office of the commissioner shall be canceled and the land under the certificate shall revert to the state and such land shall become the property of the State to the same extent as other state lands and shall be open to lease and sale, *provided that all buildings, fences and other improvements placed thereon subsequent to the date of execution of such certificate of purchase shall be and remain the property of the purchaser named in said certificate of purchase or of his heirs, assigns, or devisees; and may be removed from such land at any time within ninety (90) days from and after the date of such cancellation. If such buildings, fences, and other improvements shall not have been removed prior to the expiration of such ninety (90) day period, they shall become the property of the State.*"

Default in payment of purchase price.

Cancellation of certificate.

Period within which improvements may be removed.

Section 5. All buildings, fences and other improvements on land embraced within certificates of purchase of state land which were canceled within six (6) years prior to

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the passage and approval of this act, which said buildings, fences and improvements were placed thereon subsequent to the date of execution of such certificate of purchase, and in the event said land has not been resold, may be removed by the original purchaser, his heirs, devisees or assigns within ninety (90) days from and after receiving notice of their rights under this act and it shall be the duty of the commissioner of state lands and investments, within sixty (60) days from and after the passage and approval of this act to mail notice to such persons advising them of their rights under the provisions hereof.

Notice to owner of improvements as to his rights.

Construction of act.

Section 6. This act, save and except Section 4 hereof shall be regarded strictly as emergency legislation; and shall not repeal any existing statutes relating to state lands but shall be regarded as giving to the state board of land commissioners and to purchasers of state lands the additional rights herein enumerated.

Separability of act.

Section 7. If any section, sub-section, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislative assembly declares that it would have passed this act and section, sub-section, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsection, sentence, clause, or phrase be declared unconstitutional, the same being necessary to the welfare of the State of Montana and the political subdivisions thereof by reason of the existence of an extraordinary emergency.

Effective date and duration of act.

Section 8. This act shall take effect immediately upon its passage and approval by the governor and shall remain in full force and effect until January 1, 1941, on which date it shall automatically expire and be of no further force and effect save and except Section 4 hereof which shall remain in full force and effect.

Approved March 11, 1939.

CHAPTER 142

An Act to Amend Section 23, Revised Codes of Montana, 1935, Relating to the Cession of Jurisdiction Over That Part of Yellowstone National Park in the State of Montana, and for the Withdrawal of the Consent

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Contained in the Act of the Second Legislative Assembly of the State of Montana, Approved February 14, 1891, Insofar as the Same Applies to Lands to Be Added to Yellowstone National Park, and to Retain Exclusive Legislative Jurisdiction in the State Over All Lands That May Be Hereafter Embraced Within the Boundaries of Said Park and Repealing All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 23, Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Sec. 23, R. C. 1935, amended.

"Section 23. **Yellowstone National Park.** Exclusive jurisdiction shall be and the same is hereby ceded to the United States over all that part of territory situate in the State of Montana now embraced in the Yellowstone National Park, described as follows:

Yellowstone National Park.

'Beginning at the intersection of the east boundary of Yellowstone Park with the south boundary of Montana; thence north to the northeast corner of said park; thence west along the north boundary of the park to the northwest corner thereof; thence south along the west boundary of the park to the boundary between Montana and Idaho; thence easterly along that boundary to the west boundary of Wyoming; thence north along the west boundary of Wyoming to the northwest corner thereof; thence east along the boundary between Wyoming and Montana to the east boundary of said park, the place of beginning; containing an area of approximately one hundred ninety-eight (198) square miles, saving, however, to the said State the right to serve civil or criminal process within the limits of the aforesaid described lands, as long as the lands herein described are used for a national park, and no other purposes, in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed in said State, but outside the lands aforesaid'."

Section 2. The consent of the State of Montana to the purchase by the United States of lands within the State of Montana to be embraced in Yellowstone National Park, other than the lands described in Section 1 hereof, and the consent of the State of Montana to the exercise of legislative jurisdiction by the United States over any additional

State grants consent to purchase of additional lands by United States for park.

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lands to be embraced in said national park, as such consents may be contained in the act of the second legislative assembly of the State of Montana approved February 14, 1891, entitled, "An act ceding to the United States jurisdiction over certain lands", or any amendment of said act, is hereby withdrawn, and exclusive legislative jurisdiction over all lands within the State of Montana that may be added hereafter to said national park shall be retained in the State of Montana.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith hereby are repealed.

Approved March 11, 1939.

CHAPTER 143

Title of act.

An Act Providing for the Increase of the Rate of Taxation on Real and Personal Property for State Purposes of not to Exceed Three and One-half (3½) Mills on Each Dollar of Taxable Valuation, in Addition to the Levy Which Is Now or May Be Hereafter Authorized by Section 9 of Article 12 of the Constitution of the State of Montana, for a Period of Ten (10) Years Beginning With the Year 1941, and to Authorize and Empower the Legislative Assembly to Levy a Tax for Each Year During Such Period of an Additional Levy of not to Exceed Three and One-half (3½) Mills on Each Dollar of Taxable Valuation for the Support, Maintenance and Improvement of the Institutions Now Comprised in the Greater University of Montana, Together With the Agricultural Experiment Station and Its Branches and Substations, and the Agricultural Extension Service, Including the Soil Survey and the Grain Laboratory and to Appropriate so Much of the Money Derived Therefrom for Each Year During Said Period as May Be Necessary for Said Purposes, and Providing for the Submission of This Act to the Qualified Electors of the State of Montana at the Next General Election, Describing the Form of Ballots to Be Used and the Duties of the Secretary of the State of Montana Relative to the Submission of Said Act to the Qualified Electors of Said State.

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Be it enacted by the Legislative Assembly of the State of Montana:

Increase of tax rate for state purposes beginning in 1941.

Section 1. That the rate of taxation on real and personal property for State purposes, as is hereafter defined, for each year for a period of ten (10) years beginning with the year 1941, shall be increased three and one-half (3½) mills on each dollar of taxable valuation, in addition to the levy which is now or may hereafter be authorized by Section 9 of Article 12 of the Constitution of the State of Montana, and the legislative assembly is authorized and empowered to levy an additional tax for State purposes for each of said years of not exceeding three and one-half (3½) mills on each dollar of taxable valuation for State purposes, and all money derived from said additional levy of three and one-half (3½) mills for each of said years or so much thereof as may be necessary shall be appropriated by the legislative assembly for the support, maintenance and improvement of the State University at Missoula, the State College of Agriculture and Mechanic Arts at Bozeman, the Montana State School of Mines at Butte, the Montana State Normal College at Dillon, the Eastern Montana State Normal School at Billings, and the Northern Montana Agricultural and Manual Training School at Fort Assiniboine, now comprised in the University of Montana, together with the agricultural experiment station and its branches and substations, and the agricultural extension service, including the soil survey and the grain laboratory.

Money to be appropriated for support of units of university.

This act to be referred to the people in 1940.

Section 2. There shall be a referendum upon this act, and the secretary of state of the State of Montana is hereby required and it is made his duty to submit this act to the people of the State of Montana for their approval or rejection at the general election to be held in November, 1940, in accordance with the provisions of the Constitution and the laws of the State of Montana relative thereto; the title and number of this referendum act shall be printed upon the official ballot used at said election, and below the title shall be printed the words:

☐ For the levy for the university, agricultural experiment stations and extension service.

☐ Against the levy for the university, agricultural experiment stations and extension service.

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Each elector shall designate his preference by marking an "X" in the square before the proposition for which such elector desires to vote.

Vote, how canvassed.

Section 3. The vote upon this referendum act shall be counted and canvassed as is provided by law and if a majority of all votes cast at such election for and against such referendum act shall be in favor of the act, the governor of the State of Montana shall immediately so declare by public proclamation.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

CHAPTER 144

An Act to Amend Section 45, of the Revised Codes of Montana, 1935, Relating to the Number of Representatives From Each County.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 45, R. C. 1935, amended.

Section 1. That Section 45 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 45. **Number of Representatives From Each County.** In accordance therewith each county of the State shall be entitled to, and shall elect at each biennial general, state and county election, the number of members of the house of representatives in the legislative assembly of Montana herein below allotted and apportioned to it, and set opposite its name as follows, to-wit:

Number of representatives from each county.

Beaverhead County.....One Member.
Big Horn County.....One Member.
Broadwater County.....One Member.
Blaine County.....Two Members.
Carbon County.....Three Members.
Carter County.....One Member.
Cascade County.....Six Members.
Chouteau County.....Two Members.

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Number of representatives from each county.

Custer County.....Two Members.
Daniels County.....One Member.
Dawson County.....Two Members.
Deer Lodge County.....Three Members.
Fallon County.....One Member.
Fergus County.....Four Members.
Flathead County.....Four Members.
Gallatin County.....Three Members.
Garfield County.....One Member.
Glacier County.....One Member.
Golden Valley County.....One Member.
Granite County.....One Member.
Hill County.....Two Members.
Jefferson County.....One Member.
Judith Basin County.....One Member.
Lake County.....*One Member.*
Lewis and Clark County.....Three Members.
Liberty County.....One Member.
Lincoln County.....One Member.
Madison County.....One Member.
McCone County.....One Member.
Meagher County.....One Member.
Mineral County.....One Member.
Missoula County.....Four Members.
Musselshell County.....One Member.
Park County.....Two Members.
Petroleum County.....*One Member.*
Phillips County.....Two Members.
Pondera County.....One Member.
Powder River County.....One Member.
Powell County.....One Member.
Prairie County.....One Member.
Ravalli County.....Two Members.
Richland County.....One Member.
Rosebud County.....One Member.
Roosevelt County.....Two Members.
Sanders County.....One Member.
Sheridan County.....Two Members.
Silver Bow County.....Ten Members.
Stillwater County.....One Member.
Sweet Grass County.....One Member.
Teton County.....One Member.
Toole County.....One Member.
Treasure County.....One Member.
Valley County.....Two Members.

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Wheatland County.....One Member.
Wibaux County.....One Member.
Yellowstone County.....Five Members.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

CHAPTER 145

An Act to Amend Section 3501 of the Revised Codes of Montana, 1935, as Amended by Section 2 of Chapter 146 of the Laws of the Twenty-fifth Legislative Assembly of 1937, Relating to the Ventilation of Coal Mines, the Purity of Air in Coal Mines and Providing Methods for the Operation of Cutting and Shearing Machines in Coal Mining.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3501, R. C. 1935, amended.

Section 1. That Section 3501, Revised Codes of Montana, 1935, as amended by Section 2 of Chapter 146 of the laws of the twenty-fifth legislative assembly of 1937, be, and the same is hereby amended to read as follows:

Required ventilation of coal mines.

"Section 3501. The owner, operator or superintendent of every coal mine, whether operated by shaft, slope or drift, shall provide and hereafter maintain ample means of ventilation for the circulation of air through the main entries, cross entries and all other working places, to an extent that will dilute, carry off and render harmless, the noxious or dangerous gases generated in the mine, affording not less than one hundred and fifty cubic feet per minute for each and every person employed therein, and not less than six hundred cubic feet per minute for each and every animal *and mobile loading machine while in operation* in the mine; but in any mine, or section of a mine, where fire-damp is generated, not less than two hundred cubic feet of air per minute shall be provided for each person, or as much more as may be necessary to keep such section free from fire-damp. The quantities of air in

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circulation shall be ascertained with an anemometer or other efficient instrument; such measurement shall be made by the foreman or his assistants once a week at the inlet and outlet airways, and also at or near the face of each entry, and shall be recorded in the book kept for that purpose at the mine office. The quantity of air as provided for in this act for each person shall be conducted to each working place.

Minimum oxygen content of air.

"The oxygen content of the air in a coal mine must be maintained at nineteen or more per cent. and the carbon dioxide at less than one per cent. and all poisonous gas must be kept below a harmful percentage as determined by samples of air taken by the state coal mining inspector. All requirements relative to the purity of air in coal mines, not herein provided for, shall conform to the recommendations and requirements of the United States bureau of mines relative to coal mines in the State of Montana.

"In rooms generating fire-damp, the volume of air required by this act shall be conducted to the face thereof by the use of brattice-cloth or other suitable means."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

CHAPTER 146

An Act to Amend the Following Sections of the Revised Codes of Montana, 1935, Relating to Weights and Measures; Namely, Section 4235, Relating to State Sealer of Weights and Measures; Section 4236, Relating to Supervision of Inspection of Weights and Measures; Section 4237, Relating to Allowance of Bills and Expenses; Section 4238, Relating to Duties of Sealer of Weights and Measures; Section 4239, Relating to Inspection and Certificates; Section 4240, Relating to Penalty for Using Weighing or Measuring Devices not Inspected and Certified; Section 4241, Relating to Duty to Have Scales Adjusted; Section 4242, Relating to Inspection of Scales for Public Weighing; Section 4243,

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Title of act.

Relating to Authority to Inspect Weighing Devices; Section 4244, Relating to Authority to Inspect Weight of Commodities Offered for Sale; Section 4245, Relating to Inspection of Track Scales Used by Common Carriers; Section 4246, Relating to Weight of Commodities Offered for Sale; Section 4247, Relating to Keeping of Record of Inspection; Section 4249, Relating to Denomination of Weights; Section 4250, Relating to Use of Weights Pending Adjustment; Section 4251, Relating to Condemnation of Non Standard Weights; Section 4252, Relating to Seizure of Weights as Evidence; Section 4253, Relating to Scales of Itinerant Peddlers; Section 4254, Relating to Regulation of Milk Containers; Section 4255, Relating to Contents of Milk Bottles; Section 4256, Relating to Penalty for Using False Weights; Section 4257, Relating to Legal Weights; Section 4258, Relating to Penalty for Selling Less Quantity Than Represented; Section 4260, Relating to Penalty for Refusing to Permit Examination; Section 4261, Relating to Promulgation of Rules by State Sealer; Section 4263, Relating to Powers of Sealers; Section 4264, Relating to Disposition of Fines; Section 3575.2, Relating to Fees for Scale Inspection Service; Section 3575.3, Relating to Contingent Revolving Fund and Payment of Expenses, and Repealing the Following Sections of the Revised Codes of Montana, 1935; Namely, Section 4233, Relating to Weights and Measures Inspected by County Sealer; Section 4239, Relating to Inspection and Certificates; Section 3575.1, Relating to Appointment of State Scale Expert; Section 3575.4, Relating to Certificate of Test by State Scale Expert; Section 3575.5, Relating to Use of Untested Weighing Devices; Section 3575.6, Relating to Permit to Use Weighing Devices; Section 3575.7, Relating to Penalty for Making False Test; Providing Penalties for Violations and Repealing All Acts in Conflict.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4235, R. C. 1935, amended.

Section 1. That Section 4235 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

State sealer of weights and measures; deputies.

"Section 4235. The *commissioner of agriculture* is hereby declared to be and is the ex-officio state sealer of weights and measures. *He shall appoint as many deputy*

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sealers of weights and measures as he may deem necessary, subject to existing laws. Each such deputy shall give a bond to the State of Montana in the sum of one thousand dollars ($1,000.00) conditioned upon the faithful performance of his duties.''

Sec. 3575.2, R. C. 1935, amended.

Section 2. That Section 3575.2 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Amount of inspection fees.

''Section 3575.2. There shall be collected by the *state sealer of weights and measures* or his deputies from each person, firm, co-partnership or corporation the following inspection fees: For each railroad track scale the sum of ten dollars ($10.00); grain shipping hopper scale with a capacity of forty thousand (40,000) pounds or over, ten dollars ($10.00); wagon scale, truck scale, coal scale, dump scale, automatic or hopper shipping scale, beet scale, and stock scale, five dollars ($5.00); for each dormant platform scale, and dial scale with a capacity of five hundred (500) pounds to one thousand (1,000) pounds, two dollars ($2.00); each portable scale, meat track scale, *hanging scale* and commercial person weighing scale, one dollar ($1.00); grain testers and other small scales used for weighing *and* testing grain in grain elevators, or warehouses, fifty cents (50c); all counter scales with a capacity of one (1) to ten (10) pounds, twenty-five cents (25c); all counter scales with a capacity of over ten (10) pounds, seventy-five cents (75c). *The sealer of weights and measures, shall by proper regulation, fix inspection fees for any scales, weights, measures, weighing and computing devices not covered by the foregoing schedule of fees.''*

Sec. 3575.3, R. C. 1935, amended.

Section 3. That Section 3575.3 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Bills and accounts of state sealer of weights and measures and his deputies.

''Section 3575.3. All bills and accounts incurred by the *state sealer of weights and measures* and his deputies shall be presented to the board of examiners and allowed by said board in the same manner as provided for other claims contracted for and in behalf of the State of Montana. And to expedite the handling of the work in the field there shall be set aside a contingent revolving fund of two thousand dollars ($2,000.00) out of which the expenses of the field men shall be paid each week, together with other emergency cash claims.''

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Sec. 4236, R. C. 1935, amended.

Section 4. That Section 4236 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Powers and duties of state sealer of weights and measures.

"Section 4236. Said state sealer of weights and measures shall have general supervision over the weights and measures of the State. He shall take charge of the standards of weights and measures and shall procure at the expense of the State any weights and measures that may be necessary, and shall cause them to be kept and in no case removed from a fire-proof vault, except for the purpose of certification and repairs. He shall maintain said standards in good order and *shall* submit them once in ten years (10) to the national bureau of standards for certification."

Sec. 4237, R. C. 1935, amended.

Section 5. That Section 4237 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Authority of state sealer.

"Section 4237. The *state sealer of weights and measures* shall be authorized to perform any and all acts by this act authorized."

Sec. 4238, R. C. 1935, amended.

Section 6. That Section 4238 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Duties of state sealer.

"Section 4238. Said state sealer of weights and measures, or his *deputies,* shall visit the various counties, cities and towns in the State, and in the performance of his duties, he, or his *deputies, shall* inspect weights and measures and balances which are used for buying or selling goods, wares, merchandise, or other commodities, and for public weighing, and shall test or calibrate weights and measures, weighing devices or apparatus used as test standards in the State. He, or his *deputies,* shall, at least once *a year,* test all scales, weights and measures used in checking the receipts *and* disbursements of supplies of every State institution, and shall report in writing his findings to the executive officer of the institution concerned. The State sealer of weights and measures shall prepare a certificate of suitable size *which shall be issued to the owner or person in charge after inspection, and a proper seal* to be attached or affixed to all weights and measures or measuring devices so tested. Said certificates *and seals* shall bear *the* signature of the state sealer of weights and

Certificate of inspection.

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measures, *or* shall be *signed* by a deputy sealer of weights and measures. Such certificate shall be numbered in consecutive order, and shall *show* the *date of issuance. It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel or remove any such certificate, or any seal, stamp or mark provided for by this act, or cause or permit the same to be done with intent to mislead, deceive, or to violate any of the provisions of this act, without the written consent of the state sealer of weights and measures or that of the deputy who inspected the weighing device.*"

Sec. 4240, R. C. 1935, amended.

Section 7. That Section 4240 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Use of weights and measures without prior testing made unlawful.

"Section 4240. From and after the passage and approval of this act it shall be unlawful for any person or persons, firm, or co-partnership, corporation, or association of persons engaged in the trade of buying or selling, purchasing or disposing of, or dealing in any merchandise or commodities to any person, or persons, in the State of Montana, to sell or purchase by weight or by measure, without first having had the weights and measures, scales or measuring devices used by them, *or in their possession,* for the purpose of determining the amount or quantity of any article or articles of merchandise, tested and a seal attached thereto by the state sealer of weights and measures, or by his deputies. Such seal shall be attached or placed in a conspicuous place upon such weighing or measuring device. *Any person or persons making use of weighing devices subject to this act must report to the sealer of weights and measures or his deputies, in writing, the number and location of said weighing device and must promptly report the installation of any new weighing device.* Any person or persons using any weight or measure, or scale or other measuring device after the passage and approval of this act, or annually thereafter, which has not been tested as provided by this act, shall, upon conviction thereof, be deemed guilty of a misdemeanor."

Penalty.

Sec. 4241, R. C. 1935, amended.

Section 8. That Section 4241 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

"Section 4241. Every person or persons, firm, co-partnership or corporation engaged in the trade of buying and selling, or as a public weigher or user of weights and

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Frequency of inspection.

measures shall, *at least once* each year, have his weights, measures, balances and scales adjusted and sealed."

Sec. 4242, R. C. 1935, amended.

Section 9. That Section 4242 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Required frequency of visitation and testing.

"Section 4242. *At least once* each year, the state sealer of weights and measures, or his *deputies,* shall visit the places of business and enter upon the carts, wagons or vehicles then in use for the business of all persons engaged in the trade of buying and selling, or selling, who have weights, measures, or balances which have not been sealed during the current year, and try, adjust and seal the same. *All drivers of vehicles used in transporting any commodity which has been weighed shall, upon demand of the sealer of weights and measures, or his deputies, exhibit for examination the weigh ticket or bill of the commodity weighed or transported, showing the weight thereof.*"

Weigh ticket of commodity to be exhibited upon demand.

Sec. 4243, R. C. 1935, amended.

Section 10. That Section 4243 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Power of state sealer of weights and measures and his deputies.

"Section 4243. The state sealer of weights and measures, *or his deputies* shall have power to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of any kind, instruments or mechanical devices for measurement, and the tools, appliances, or accessories connected with any and all of such instruments or measurements, used, *kept for use, sold, offered for sale, or kept for sale,* or employed within the State by a proprietor, agent, lessee or employee in determining the size, quantity, extent, area or measurement of quantities, things, produce, articles for distribution or consumption, offered or submitted by such persons for sale, hire, or award. Provided also, that the state sealer of weights and measures, or his *deputies,* shall at least once a year and as often as may be deemed necessary, try and prove all computing scales and other devices having a device for indicating or registering the price as well as the weight of the commodity offered for sale. Computing devices, which may be used by any person at any place within this State, shall be tested as to the correctness of both weight and arithmetical values indicated by them."

Testing of computing devices.

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Section 11. That Section 4244 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Sec. 4244, R. C. 1935, amended.

"Section 4244. The sealer of weights and measures, or his *deputies,* shall at irregular intervals examine all commodities sold and offered for sale and test them for correct weight, measure or count. *And he, or his deputies, shall have the power to and shall, from time to time, weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered for sale, or sold, or in the process of delivery, in order to determine whether the same contain the quantity or amount represented and whether they are being offered for sale or sold in accordance with law and may seize for use as evidence any such amounts of commodities or package or packages which shall be found to contain a less amount than that represented.* He, or his *deputies, shall,* for the purposes above mentioned, and in the general performance of their official duties, enter or go into or upon, with or without formal warrant, any stand, place, building, or premises, or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon, or any dealer whatsoever *and require him, if necessary, to proceed to some place specified by the sealer of weights and measures, or his deputies,* for the purpose of making the proper tests; and in the exercise of such duties they shall have full police power to enforce any and all reasonable measures for testing such weights and measures, and also in ascertaining whether false or short weights and measures are being given in any sales or transfer of articles or merchandise taking place within the State. Whenever the state sealer of weights and measures, or his *deputies,* have reason to believe that any person or persons or corporation is violating the provisions of this act, or any act relating to weights and measures, they shall submit the evidence to the properly constituted authority in the county in which such violation occurs, who shall thereupon prosecute the persons alleged to have violated the provisions of this act, or any act relating to weights and measures, or such evidence may be submitted direct to the attorney general of the State, who shall have authority to prosecute such persons in the proper county."

Packages or amounts of commodities to be weighed or measured.

Police power.

Prosecution of violators.

Section 12. That Section 4245 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Sec. 4245, R. C. 1935, amended.

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Track scales.

"Section 4245. (a) All track scales used for the purpose of weighing freight in carload lots within the State shall be under the control and direction and jurisdiction of the state sealer of weights and measures, and subject to inspection by him, or his *deputies.*

(b) The state sealer of weights and measures, or his *deputies,* shall have power either on their own motion or on complaint being made, to determine whether any such track scales are defective or inefficient, or whether the time, manner, or method of using same is unreasonable, ineffective, or unjust, and shall have power to condemn any such scale found to be defective or inefficient, and prohibit the use of the same while in that condition, and to render such decision and to make such order, rule, or regulation as may be deemed necessary or advisable.

Power to condemn.

(c) Any person or persons who shall knowingly and wilfully sell, or direct or permit any person or persons in his or their employ to sell any commodity or article of merchandise and make or give any false or short weight or measure, or any person or persons owning or keeping, or having charge of any scales or stockyards for the purpose of weighing livestock, hay, grain, coal, or other articles, who shall knowingly and wilfully report any false or untrue weight, whereby any other person or persons may be defrauded or injured, shall *be deemed guilty of a misdemeanor,* and shall be answerable to the party defrauded or injured in double damages."

Penalty for wilful short weighing or measuring.

Sec. 4246, R. C. 1935, amended.

Section 13. That Section 4246 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

"Section 4246. It shall be unlawful for any person or persons, association, or corporation, to sell or offer for sale in this state any commodity or article of merchandise in a package or container, without having such package or container labeled in plain, intelligible words and figures, with a correct statement of the net weight, measure, or numerical count of its contents, *designated, where not otherwise provided, by lettering of at least 1/9 inch in heighth (8 point type).* Provided, that nothing in this Section shall prevent *the sale of a commodity within the provisions of this act when such sale is made from bulk and the quantity is weighed, measured, or counted for the immediate purpose of such sale;* provided, further, that

Package labels.

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nothing in this Section shall apply to commodities or articles of merchandise, except milk and cream, offered for sale or sold in packages or containers at a price of ten cents (10c) or less per such package or to commodities or articles of merchandise in packages or containers which are sold by the aggregate net weight of the contents thereof.

Commodities and articles of merchandise to be sold by true net weight, measure or numerical count, unless parties agree otherwise.

1. It shall be unlawful for any person to sell or offer for sale in this State any commodity or article of merchandise, except by true net weight, measure, or numerical count, except where the parties otherwise agree. Contracts for work done, or anything to be sold by weight or measure, shall be construed according to the standards hereby adopted as the standards of this State, except where the parties have agreed upon any other calculations of measurement, and all statements and representations of any kind referring to the weight or measure of commodities or articles of merchandise shall be understood in the terms of the standards of weights and measures aforesaid. *It shall be unlawful for any person to sell solid substances by liquid measure.*

Offenses enumerated.

2. It shall be unlawful for any person, in buying or selling any commodity or article of merchandise, to make or give false or short weight or measure, or to sell or offer for sale any commodity or article of merchandise less in weight or measure than he represents, or to use a weight, measure, balance or measuring device that is false and does not conform to the authorized standard for determining the quantity of any commodity or article of merchandise, or to have a weight, measure, balance, or measuring device adjusted for the purpose of giving false or short weight or measure, or to use in buying or selling of any commodity or article of merchandise a computing scale or device indicating the weight and price of such commodity or article of merchandise, upon which scale or device the graduations or indications are falsely or inaccurately placed, either as to weight or price, or to use any computing scale having a horizontal registering bar with a barrel computing device, unless such scale is adjusted to register the correct weight from all angles of vision, *and the view on the customer's side shall never be, in any manner, obstructed.* The selling and delivering of any commodity or article of merchandise shall be prima facie evidence of the representation on the part of the vendor that the quantity sold and delivered was the quantity bought by the vendee. There shall be taken

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into consideration the usual and ordinary leakage, evaporation, or waste that there may be from the time a package or container is filled by a vendor until he sells the same. A slight variation from the stated weight, measure or quantity for individual packages not to exceed three per cent is permissible; provided, that the variation is as often above as below the weight, measure or quantity stated.

Refusal to exhibit article for testing its quantity, a misdemeanor.

Any person, who by himself, or his employee or as a proprietor or manager, shall refuse to exhibit any article, commodity or the container of any commodity, produce or anything being sold or offered for sale at a given weight or quantity, or ordinarily so sold, to the state sealer of weights and measures, or his deputies, for the purpose of allowing the same to be tested and proved as to the quantity contained therein as in this act provided, shall be guilty of a misdemeanor.

Containers.

The term container used in this act is hereby defined to be ANY receptacle or carton into which a commodity is packed, or any wrappings with which any commodity is wrapped or put up for sale, or to be offered or exposed for sale. No containers, boxes, or baskets wherein food products or other commodities are packed shall have a false bottom, false side walls, false lid or covering, or be otherwise so constructed as to facilitate the perpetration of deception or fraud. The state sealer of weights and measures, or his deputies, may seize any container which facilitates the perpetration of deception or fraud. By order of a court having jurisdiction the containers seized shall be condemned and destroyed or released upon such conditions as the court in its discretion may impose, to insure against their use in violation of this Section.

Berry containers, standard weights established.

There are hereby established the following standard net weights for all berry containers, or hallocks in which strawberries, red or black raspberries, blackberries, currants, gooseberries, or any other berries are sold or offered for sale in this State:

(a) Pint hallocks or containers shall be 33.6 cubic inches in capacity and the contents thereof shall have a net minimum weight of twelve (12) ounces.

(b) Quart hallocks or containers shall be 67.2 cubic inches in capacity and contents thereof shall have a net minimum weight of twenty-four (24) ounces. The sale

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of, or having in possession for sale, any strawberries, red or black raspberries, blackberries, currants, gooseberries or any other berries in containers or hallocks not complying with the provisions of this act shall be a misdemeanor punishable, upon conviction, by a fine of not less than ten dollars ($10.00), nor more than twenty-five dollars ($25.00).''

Sec. 4247, R. C. 1935, amended.

Section 14. That Section 4247 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Sealer of weights and measures, record and report.

''Section 4247. The state sealer of weights and measures shall keep a complete record of all work done under his direction, and shall make *a biennial* report *to the governor* not later than the first of January of each year preceding the meeting of the legislative assembly.''

Sec. 4248, R. C. 1935, amended.

Section 15. That Section 4248 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Penalty for false sealing.

''Section 4248. Any person authorized to seal weights and measures in accordance with this act who shall, without duly verifying the weights and measures *or any weighing device* of any person by comparison with the standards of weights and measures, *stamp any such weighing device* or measure, or attach thereto a seal that said *weighing device* or measure has been duly tested, is hereby declared, upon conviction thereof, to be guilty of a misdemeanor.''

Sec. 4249, R. C. 1935, amended.

Section 16. That Section 4249 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Weights and measures for use in trade to be stamped or marked.

''Section 4249. Every weight for use in trade, except when the small size of the weight renders it impracticable, shall have the denomination of such weight permanently marked on the top side thereof in legible figures or letters; and every measure of capacity for use in trade shall have the denomination and kind thereof permanently marked on the outside of such measure in legible figures or letters. A weight or measure not in conformity with this Section shall not be *sealed* by the state sealer of weights and measures, or *his deputies.*

Apothecaries' weights and measures.

(a) Apothecaries and all other persons dealing in drugs, medicine and merchandise, commonly sold by apothecaries'

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weight or by apothecaries' liquid measure, shall at least once in two years cause such weights and measures so used to be tested and sealed by officers authorized under this act to inspect weights and measures."

Sec. 4250, R. C. 1935, amended.

Section 17. That Section 4250 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

"Section 4250. If any weights, measures, or balances can be readily adjusted by such means as the sealer of weights and measures, *or his deputies,* may have at hand, he *or they* may adjust and seal them, but if they cannot be readily adjusted he, *or they,* shall affix to such weights, measures, or balances a notice forbidding their use until he, *or they are* satisfied they have been so adjusted as to conform with the standard. *It shall be unlawful for any person to* remove such notice, without the *written* consent of the officer affixing the same."

Notice forbidding use of weights or measures until they have been adjusted.

Sec. 4251, R. C. 1935, amended.

Section 18. That Section 4251 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Condemnation or confiscation of weights and measures which cannot be made to conform.

"Section 4251. All weights, measures, and balances which cannot be made to conform to the standard weights and measures as herein provided shall be stamped "condemned" or "C. D." by the state sealer of weights and measures, *or his deputies, or the state sealer of weights and measures, or his deputies, may confiscate and seize, without warrant, any incorrect weight, measure, weighing or measuring device or part thereof which does not conform to the state standards or specifications, and which in his or their best judgment cannot be repaired. Scales commonly known as "family scales" or scales marked when sold "not in legal trade" shall not be deemed standard and shall be subject to such seizure. The state sealer of weights and measures, or his deputies, shall not be liable to the owner of the property for damages caused by such seizure."*

Sec. 4252, R. C. 1935, amended.

Section 19. That Section 4252 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Seizure of weights and measures as evidence.

"Section 4252. The state sealer of weights and measures, *or his deputies,* may seize, without warrant, such weights, measures, or balances as may be necessary to be used as evidence in case of violation of any act relative

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to the sealing of weights and measures. They shall be returned to the owners or forfeited as the court may direct."

Sec. 4253, R. C. 1935, amended.

Section 20. That Section 4253 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Scales and measures of peddlers.

"Section 4253. All itinerant peddlers and hawkers, using scales, balances, weights, or measures, shall take the same to the office of the state sealer of weights and measures, *or his deputies,* before any use is made thereof, and have the same sealed and adjusted *at least once a year.*"

Sec. 4254, R. C. 1935, amended.

Section 21. That Section 4254 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Milk to be sold only by standard wine measure.

"Section 4254. All milk, cream, and skimmed milk shall be sold only by standard wine measure, and by or in measures, cans, jars, bottles, or other vessels or receptacles, *the standard measure or capacity of which shall be the gallon containing two hundred thirty-one (231) cubic inches, the half gallon containing one-half as much as the gallon, and the quart one-fourth as much as the gallon and the pint one-half as much as the quart.* Any purchaser of milk, cream or skimmed milk, having reason to believe that any measure, can, jar, bottle, or other vessel or receptacle, in which milk, cream, or skimmed milk is sold and delivered to him, is not of sufficient size or capacity to contain, by standard wine measure, the amount thereof purchased, may apply to the sealer of weights and measures, or his deputies, who shall test the capacity of the same and issue to such purchaser his certificate stating the capacity thereof; and if such capacity, according to such certificate, shall be less than the amount purchased, such purchaser may make complaint *to any court having jurisdiction.*"

Purchaser may make complaint.

Sec. 4255, R. C. 1935, amended.

Section 22. That Section 4255 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Capacity of milk bottles to be blown into them or permanently indicated thereon.

"Section 4255. No person or corporation shall, after the passage of this act, sell or offer for sale within the State of Montana, any milk or cream in bottles or glass jars, unless each of said bottles or glass jars in which said milk or cream is sold or offered for sale shall have blown

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into it, or otherwise indelibly and permanently indicated thereon in a legible and conspicuous manner, the capacity thereof, and the state sealer of weights and measures, *or his deputies,* shall have the right, at any time, to examine any such bottle or glass jar, in order to ascertain whether such bottle or jar is of a capacity not less than that which it purports to be; and if any such bottle or jar is of less capacity than that which it purports to be, or of any such bottle or jar shall not have blown into it, or otherwise indelibly and permanently indicated thereon in a legible and conspicuous manner, its capacity as aforesaid, the person or corporation selling or offering for sale milk or cream in any such bottle or jar, or having in his possession any such bottle or jar, to be used or which has been used for the purpose of containing milk or cream to be sold or offered for sale in said State of Montana shall *be deemed guilty of a misdemeanor.''*

Sec. 4256, R. C. 1935, amended.

Section 23. That Section 4256 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

''Section 4256. A person who uses, or has in his possession for use in trade, any weight, measure, scale, balance, steel-yard, or weighing *device,* which is false or incorrect, shall *be guilty of a misdemeanor,* and any contract made *by any person based upon such false or incorrect devices shall be void* and *such devices* shall be liable to be forfeited *by any court having jurisdiction.''*

Penalty for use of false weights.

Sec. 4257, R. C. 1935, amended.

Section 24. That Section 4257 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Weight duly stamped is legal throughout state.

''Section 4257. A weight or measure duly stamped by the state sealer of weights and measures, *or his deputies,* or by the national bureau of standards, shall be a legal weight or measure throughout the State, unless found to be false or incorrect, and shall not be liable to be resealed because used in any other place than that in which it was originally stamped.''

Sec. 4256, R. C. 1935, amended.

Section 25. That Section 4258 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Offenses in respect to sale.

''Section 4258. Whoever sells or offers for sale a less quantity than represented, or sells in a manner contrary to law, shall be guilty of *a misdemeanor.''*

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Section 26. That Section 4260 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Sec. 4260, R. C. 1935, amended.

"Section 4260. *Any* person who neglects or refuses to produce for the state sealer of weights and measures, *or his deputies,* all weights, measures, or balances in his possession and used in trade, or on his premises, or refuses to permit the said officers to examine the same, or obstructs the entry of said officers, or otherwise obstructs or hinders any official under this law shall be *guilty of a misdemeanor.*"

Obstructing sealer, a misdemeanor.

Section 27. That Section 4261 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Sec. 4261, R. C. 1935, amended.

"Section 4261. The state sealer of weights and measures is hereby authorized to make such rules and regulations for the guidance and direction of his *deputies* in conformity with this act as may be proper and necessary to carry out the provisions of this act in a uniform manner. Such rules and regulations when adopted by the state sealer of weights and measures shall have the same force and effect as is provided for in this act."

Rules and regulations by sealer of weights and measures.

Section 28. That Section 4263 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Sec. 4263, R. C. 1935, amended.

"Section 4263. The state sealer of weights and measures and *his deputies* shall be, by virtue of their respective offices, deputy sheriffs, and as such shall have power to arrest and detain any person violating the provisions of this act, without warrant."

Power of arrest by sealer and deputies.

Section 29. That Section 4264 of the Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Sec. 4264, R. C. 1935, amended.

"Section 4264. All fines collected for violation of the provisions of this act shall be paid to the state treasurer for support and maintenance of the department of weights and measures. All justices of the peace and clerks of district courts who may collect any fine imposed for the violation of the provisions of this act must, not later than the fifth of each month, transmit to the state sealer of weights and measures all moneys so collected, *after de-*

Disposition of fines collected.

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ducting therefrom all costs in each case, and the state sealer of weights and measures shall pay the same to the state treasurer, taking his receipt therefor."

Penalty for violation of act.

Section 30. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and where no other penalty is herein provided, upon conviction shall be fined not more than five hundred ($500.00) dollars.

Repealing clause.

Section 31. That Sections 4233, 4239, 3575.1, 3575.4, 3575.5, 3575.6, 3575.7, Revised Codes of Montana, 1935, and all acts and parts of acts in conflict herewith are hereby repealed;

Provided, however, this act shall not be construed as repealing any of the provisions of Chapter 314, Revised Codes of Montana, 1935.

Effective date.

Section 32. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

CHAPTER 147

An Act to Amend Section 3776.7, Revised Codes of Montana, 1935, Relating to the Establishment and Description of Little Saint Joe Game Preserve.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3776.7, R. C. 1935, amended.

Section 1. That Section 3776.7, Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

"Section 3776.7. **Little Saint Joe Game Preserve.** For the better protection and propagation of game animals and birds, the following described area in Mineral County, State of Montana, is hereby set aside and established as a state game preserve, to be known as the Little Saint Joe Game Preserve. Beginning at a point on the south bank of the Missoula river where *Dry creek flows into said river;* running thence westerly along *the south bank of Dry creek to the northwest quarter (NW¼) of Section twenty-seven (27) in township seventeen (17) north, range twenty-seven (27) west of the Montana principal meridian to the water-*

Little Saint Joe Game Preserve established.

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shed between Murphy creek and the dry fork of Dry creek; running thence in a southerly direction along this divide to Blacktail mountain in the northeast quarter (NE¼) of Section four (4) in township sixteen (16) north, range twenty-seven (27) west of the Montana principal meridian; running thence in a southwesterly direction along the watershed between Thompson-Oregon creeks and Dry creek to the Montana-Idaho state line; thence westerly along said state line to a point where the Deer creek government trail intersects said state line between Montana and Idaho; thence northerly along the east side of said Deer creek trail to a point where said trail intersects the south bank of the St. Regis river; thence down the south bank of the St. Regis river to its confluence with the Missoula river; thence up the south bank of the Missoula river to the point of beginning, except that the hereinafter described land now within the limits of said Little Saint Joe Game Preserve as above set forth by metes and bounds shall be excluded therefrom; to-wit: All privately owned land purchased prior to this act, under fence in sections thirteen (13), fourteen (14), fifteen (15), twenty-two (22), twenty-three (23) and twenty-four (24) in township seventeen (17) north, range twenty-seven (27) west of the Montana principal meridian.''

Little Saint Joe game preserve.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 11, 1939.

CHAPTER 148

An Act to Transfer Moneys From the State Public School General Fund to the State Common School Equalization Fund in Accordance With the Recommendation of the State Board of Education.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Whereas, the state board of education has recognized that an emergency exists because economic factors and drought have decreased the value of taxable property in certain regions of the State, and natural forces have caused wide-spread crop failures, resulting in

Preamble.

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tax delinquencies, and necessitating the closing of schools in those regions unless prompt aid and assistance is furnished by the State of Montana;

Money transferred from state public school general fund to state common school equalization fund.

Now, therefore, in order to promptly aid and assist these regions, the state treasurer and state auditor are hereby directed to transfer seventy-five thousand dollars ($75,000.00) from the state public school general fund to the state common school equalization fund in accordance with the recommendations of the state board of education.

Effective date.

Section 2. This act is an emergency act and shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

CHAPTER 149

An Act to Amend Section 1805.79, Revised Codes of Montana, 1935, Relating to the Terms of Payment Upon a Purchase of State Land; and Requiring Bidder to Include a Certified Check for not Less Than 10% of the Total Appraised Sales Price With His Bid; and Providing That a Purchaser of State Land Shall Make a Payment on the Day of Sale.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1805.79, R. C. 1935, amended.

Section 1. That Section 1805.79, Revised Codes of of Montana, 1935, be, and the same hereby is amended to read as follows:

Terms of payment.

"Section 1805.79. **Terms of Payment.** Every *bidder upon state land of any class whatsoever shall accompany his bid with a certified check for not less than ten per centum (10%)* of the total *appraised sales price as advertised.* Every purchaser of state land shall pay in cash on the day of sale such portion of the purchase price as he may desire but in no case less than ten per centum (10%) of the total sales price, and in case the balance on the purchase price is not an exact multiple of twenty-five dollars ($25.00), then he shall pay such additional sum as is necessary to reduce the balance to an even multiple of twenty-five dollars ($25.00); he shall also in all cases pay

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the sum of five dollars ($5.00) as a fee for each certificate of purchase to be issued to him.

"The balance of the purchase price shall draw interest at the rate of five per centum (5%) per annum, payable annually, and the balance of the purchase price itself shall be payable through a period of thirty-three (33) years on the amortization plan, which is hereby defined as being that plan under which part of the principal is required to be paid each time interest becomes due and payable, and under which this part payment on the principal increases at each succeeding installment in the same amount that the interest payment decreases so that the combined amount due on principal and interest on each due date remains the same until the loan or bond is paid in full; provided, however, that the amount of the last installment may vary from the other installments to the extent resulting from disregarding fractional cents in the previous installments; provided, however, that the balance of the purchase price on town and city lots shall be payable on the amortization plan through a period of twenty (20) years; and provided further that the board may at any time fix a shorter period than twenty (20) years for the payment of such balance on town and city lots, and different periods of time may be established for different towns and cities as the best interest of the State may appear to demand."

Interest on balance.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 11, 1939.

CHAPTER 150

An Act Amending Sections 3228.21, 3228.22, 3228.23, 3228.27, 3228.28, 3228.29 and 3228.30 of the Revised Codes of Montana, 1935, as Amended by Chapter 183 of the Session Laws of 1937, to Provide for the Sanitary Regulation and Licensing of Barber Shops, Schools and Colleges; to Fix Fees for the Regulation of Such Barber Shops, Schools and Colleges and for the Annual Renewal

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Thereof; to Provide Penalties for Violations of the Provisions of the Act; to Approve Agreements From Each City or Town Within the State of Montana; and to Further Enlarge the Present Powers of the Board of Barber Examiners.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3228.21, R. C. 1935, amended.

Section 1. That Section 3228.21 of the Revised Codes of Montana, 1935, as amended by Chapter 183 of the Session Laws for 1937 be, and the same is hereby amended to read as follows:

"*Section 3228.21. Licensing and Registration of Barbers, Barber Shops, Barber Schools and Barber Colleges.*

Licensing and registration of barbers, barber shops, barber schools and barber colleges.

A. A person is qualified to receive a certificate of registration to practice barbering:

(1) Who has practiced as a registered apprentice for a period of eighteen (18) months under the immediate personal supervision of a registered barber; and who has passed a satisfactory examination conducted by the board *of barber examiners* to determine his or her fitness to practice barbering as defined by Section 3228.20 as amended.

(2) Who is a graduate of a *standardized* school of barbering, (having a curriculum as adopted by the national educational council of barber examiners, and who has attended such school for the time prescribed herein and which school of barbering has been approved by the board *of barber examiners* of the State of Montana), and who has passed a satisfactory and practical examination conducted by the said board *of barber examiners* to determine his or her fitness to practice barbering.

Apprentice, definition of.

(3) Who has served as an apprentice. An apprentice, for the purpose of this act, is a person who receives instruction in an approved barber school, or college, or from a barber authorized to practice barbering in the State of Montana.

Apprentice fee.

Every apprentice must file with the board *of barber examiners* a statement in writing showing the name and place of business of his or her instructor, or school, the date of commencement of the apprenticeship, and the full name and age of said apprentice, and shall pay to the board *of barber examiners* a fee of three dollars ($3.00), where-

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upon the board *of barber examiners* shall issue the said apprentice a card.

Apprentice may practice, when.

B. No registered apprentice may independently practice, or engage in the practice of barbering; provided, however, he may do any and all of the acts which constitute the practice of barbering when so done under the immediate personal supervision of a registered barber.

Barber schools and colleges must be approved.

C. No school, or college, of barbering shall be approved by the board *of barber examiners* unless it teaches the curriculum of the standardized schools *approved* by the national educational council of barber examiners. Students of said schools or colleges may, after attending such schools for a period of six (6) months, make application to the board *of barber examiners* for an apprenticeship certificate to practice barbering under the immediate *personal* supervision of a licensed barber for the period of one (1) year, after which time said students may then make application to take the examination for a barber's certificate of registration.

Regulations in respect to barber shops, schools or colleges.

D. *A barber shop, school or college must be conducted at a fixed place of establishment; no person or corporation shall open or maintain a barber shop, school or college, or hold himself or itself out as engaging in or conducting a barber shop, school or college, unless first licensed so to do by the board of barber examiners.* Every barber school, or college, operating within the State of Montana must be in charge of a person who has had ten (10) years continuous experience as a barber, providing that the owner of such school, or college shall first secure from the board *of barber examiners* a permit to operate on payment of an annual license fee of fifty dollars ($50.00), and shall keep said permit prominently displayed, and shall, before commencing business file with the secretary of state a bond to the State of Montana, which bond shall be approved by the attorney general, in the sum of two thousand ($2,000.00) dollars conditioned upon the faithful compliance of said barber school, or college, with all the provisions of Chapter 127, Session Laws of 1929 as amended; and to pay all judgments that may be obtained against said schools, or colleges, or the owners thereof on account of fraud, misrepresentation or deceit practiced by them, or by their agents; provided, further, that all barber schools, or colleges shall keep prominently displayed a substantial sign

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as a barber school, or barber college. Provided, further, that all barber schools, or colleges, upon receiving students shall immediately apply to the board *of barber examiners* for student permits upon blank forms provided by the board *of barber examiners* for such purposes.

Application for barber shop, school or college license.

An application for a barber shop, school or college license shall be in writing and verified on a form provided by the board of barber examiners. Upon receipt of an application for a license hereunder, and upon payment of the initial inspection fee, said board of barber examiners shall cause an investigation and inspection to be made as to the character of the applicant, and upon proper notice and after proper hearing shall report its findings to the secretary of the board of barber examiners, who shall grant a license, if the board of barber examiners finds that the applicant is of good character, and that the proposed barber shop, school or college is equipped and will be conducted as required by this act. Every application must be granted or refused within thirty (30) days from the date of filing of such application or within fifteen (15) days after the close of the hearing upon the application in case a hearing is held.

Qualifications for barber shop license.

E. *No barber shop license shall be issued in this State to anyone except one who holds a regular valid barber's certificate as provided for by this act, and no barber shop shall be maintained or conducted in this State except by one who holds a barber shop license issued by the board of barber examiners as provided by this act, and this certificate shall not be transferable as to person or place.*

Requirements.

F. *Before a license is issued to conduct a barber shop, school or college which shall be established in this State on or after the date this act goes into effect, such barber shop, school or college must be inspected and approved by the board of barber examiners and shall meet with the following requirements: (1) Must have both hot and cold running water connected with city water supply. In villages or towns where running water is not available, hot water tanks shall have not less than two (2) gallon capacity with gravity pressure. Waste water shall be disposed of through some system, carrying it away from the building. This shall be done by sewer connections, or in a manner meeting with the requirements of the state department of health rules and regulations, city ordinances, and having the approval of the city or village*

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board of health, as required by law. (2) The head-rest of every barber chair must be equipped so that each customer will be supplied with clean fresh paper or towel before its use for any person. (3) Must have a closed cabinet for each chair, to keep instruments in when not in use, and must have proper sterilization equipment for immersing instruments before use on each customer. (4) Must have sufficient number of towels so that each customer will be served with a clean laundered towel. (5) Must be well lighted, well ventilated, and kept in a clean, orderly and sanitary condition at all times. (6) Must pay to the board of barber examiners the required fee.

Barber shops, schools and colleges to be open for inspection.

G. *All barber shops, barber schools or colleges shall be open for inspection at any time during business hours, to any member of the board, or its agents or assistants, and it shall be the duty of every owner or manager of a barber shop licensed under this act to make certain that each barber employed therein holds a certificate to practice barbering in Montana, and that all employees observe the sanitary rules of the state department of health and the board of barber examiners and report to the board of barber examiners the name of any person practicing barbering therein, who has a communicable disease.*

Causes for suspension or revocation of license.

H. *The board of barber examiners may either refuse to issue or renew, or may suspend or revoke any barber shop or barber school or college license for any one or combination of the following causes: (1) The violation of any of the provisions of Subdivisions 1, 2, 3, 4, and 5 of Subsection F of this Section, Subsection G of this Section, and Section 3228.23 of this act; (2) Conviction of a felony, shown by a certified copy of the record of the court of conviction; (3) Gross malpractice or gross incompetency; (4) Continued practice by a person knowingly having an infectious or contagious disease; (5) Advertising by means of knowingly false or deceptive statements; (6) Advertising, practicing or attempting to practice under a trade name other than one's own; (7) Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs; (8) The commission of any of the offenses described in Section 3228.27 of this act.*

I. *Any applicant whose license has been refused, suspended or revoked by the board of barber examiners under*

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Appeal to district court by aggrieved applicant.

this act may within ten (10) days of such action file a petition in the district court in the county in which the applicant resides. The licensee shall be named as plaintiff and the board of barber examiners as defendant. Said court shall have jurisdiction after notice to the board of barber examiners to hear and determine said petition in a summary manner, and to reverse, vacate or modify the order of the board of barber examiners complained of, if upon consideration of the record, such court is of the opinion that such order was unlawful or unreasonable. The trial of the district court upon such an appeal shall be de novo. The decision of the board of barber examiners shall not be stayed by the proceedings on appeal and such appeal shall not operate to restore the right of the licensee to operate a barber shop pending such appeal. The attorney general shall defend said action of the board of barber examiners on behalf of the State; but the county attorney of the county where the petition is filed, at the request of the attorney general, shall appear and defend such action."

Sec. 3228.22, R. C. 1935, amended.

Section 2. That Section 3228.22 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Present practitioners.

"Section 3228.22. *Present Practitioners.* Any person engaged in the practice of barbering in this State at the time this act goes into effect, provided he furnish a satisfactory physician's certificate, approved by the state board of health, shall be granted a certificate of registration as registered barber without other examination, provided further that such person shall apply for a certificate on or before August 1, 1929.

Barber shops, schools or colleges previously established.

Any barber shop, school or college established, maintained and operated in this State prior to the date this act goes into effect, provided its owner or manager furnish satisfactory evdience of compliance with the laws heretofore governing barber shops, schools or colleges in this State, shall be granted a license, provided further, that such owner or manager shall apply for such license and pay the required fee on or before May 31, 1939. Any change in the ownership or management of a barber shop, school or college, on or after the date this act goes into effect, whether by sale or otherwise, shall render such barber shop, school, or college subject to all the provisions of Section 3228.21 and Section 3228.23 of this Act."

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Section 3. That Section 3228.23 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3228.23, R. C. 1935, amended.

"Section 3228.23. **Display of Certificate** *and License.* Every holder of a certificate of registration shall display it in a conspicuous place, adjacent to or near his or her work chair.

Display of certificate and license.

Every license to operate a barber shop, school or college shall specify the name of the licensee and shall be kept in a conspicuous place in the barber shop, school or college. No barber shop, school or college shall be conducted or held forth as being conducted under any name except the name appearing as licensee on the license issued by the board of barber examiners.

Every barber shop shall display a schedule of prices in a conspicuous place."

Section 4. That Section 3228.27 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3228.27, R. C. 1935, amended.

"Section 3228.27 **Powers and Duties.** The Board *of barber examiners* shall conduct practical examinations of applicants for certificates of registration to practice as registered barbers, not less than four (4) times each year at such times and places as the board *of barber examiners* may determine. Said examination shall cover the fundamentals of barbering, dermatology and sanitation. The board *of barber examiners* shall issue all certificates of registration. The board *of barber examiners* may, at its discretion, appoint inspectors with authority to inspect barber shops, their compensation to be the same as provided for members of the board *of barber examiners* while engaged in said duties.

Powers and duties of board of barber examiners.

The board of barber examiners shall have power to approve price agreements, establishing minimum prices for barber work, signed and submitted to the board of barber examiners by any organized group or groups of at least 75 per cent of the barbers in any city or town, within the State of Montana, should the board of barber examiners, after ascertaining by such investigations and proofs as the condition permits and requires, find that such price agreement is just and under varying conditions will best

Price agreements.

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protect the public health and safety by affording a sufficient minimum price for barber work to enable the barbers to furnish modern and healthful services and appliances so as to minimize the danger to the public health incident to such work. For the purpose of this act, a city or town shall be deemed to include, in addition to the territory within its legal limits, the territory adjacent to it and lying within three miles of said legal limits. In determining whether any such price agreement is just and will best protect the public health and safety, the board shall take into consideration all conditions affecting the barber business in its relation to the public health and safety.

Minimum prices.

In determining reasonable minimum prices the board of barber examiners shall take into consideration the necessary cost incurred in the city or town in maintaining a barber shop in a clean, healthful and sanitary condition.

Requirements to establish price schedule.

The board of barber examiners, after making such investigation, shall fix by official order the minimum price for all work usually performed in a barber shop within the city or town in which such price agreement has been signed. The board of barber examiners may upon the petition of 50% of the barbers of the said city or town readjust the minimum prices and such new prices must be approved by 75% of the barbers in the city or town providing that any apprentice barber shall charge not less than 50% of the approved price in the said city or town. Provided, further, that this Section shall not apply to students who have been enrolled less than six months in any barber college in the State of Montana or until they become apprentice barbers.

The board *of barber examiners* shall have authority to make necessary rules and regulations for the administration of the provisions of this act not inconsistent with this act nor the laws of the State."

Sec. 3228.28, R. C. 1935, amended.

Section 5. That Section 3228.28 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Penalty.

"Section 3228.28. **Penalty.** Any person practicing the occupation of a barber without first having obtained a license, as provided in this act, or any person knowingly employing a barber who has not obtained such a license, or any person who falsely pretends to be qualified to prac-

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tice such occupation under this act, *and any person who violates any of the provisions of this act,* shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than *twenty-five ($25.00)* dollars nor more than *two hundred ($200.00)* dollars, or imprisonment in the county jail for not less than ten (10) days nor more than ninety (90) days, or both. In addition to the penalty hereinbefore prescribed, the *board of barber examiners* may, after hearing, suspend or revoke any barber's certificate of registration, *or license to operate a barber shop, school or college, or both* by reason of any person wilfully violating this act or persistently failing to conform to the lawful rules and regulations promulgated by the *board of barber examiners.*"

Sec. 3228.29, R. C. 1935, amended.

Section 6. That Section 3228.29 of the Revised Codes of Montana, 1935, as amended by Chapter 183 of the Session Laws for 1937, be, and the same is hereby amended to read as follows:

"Section 3228.29. **Fees to Be Paid by Apprentices, Students, Barbers and Barber Shops.**

Fees to be paid by apprentices, students, barbers and barber shops.

A. The fee to be paid by an applicant for an examination to determine his or her fitness to receive a certificate of registration to practice barbering as defined in this act, shall be fifteen ($15.00) dollars, and for the issuance of said certificate an additional three ($3.00) dollars. The fee to be paid by an apprentice or student for a certificate of registration shall be the sum of three ($3.00) dollars.

Individual barber license fee.

B. Each person registered as a barber, or barber apprentice, shall on or before the first day of July of each year pay a license fee of three ($3.00) dollars for the renewal of his or her certificate of registration, and if any barber, or barber apprentice, shall fail to have such certificate renewed on or before the first day of August of each year such barber, or barber apprentice, shall upon the renewal of said certificate of registration pay a penalty, or a restoration fee, of five ($5.00) dollars, in addition to the regular fee of three ($3.00) dollars provided for herein, and if a certificate of registration is not renewed within one year after date of expiration thereof, such barber, or barber apprentice, shall not be entitled to have such certificate of registration renewed, or a new certificate of registration issued, without first

Penalty.

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Proviso.

applying for and taking the examination and paying the fees provided for by this Section. Provided, further, however, that physically handicapped men and women, trained for the barber profession by the state bureau of civilian rehabilitation and certified by that department as having successfully completed a six (6) months course in a reputable barber college will not be required to pay any fees, but will for a period of one (1) year immediately following their training be exempted from all except the sanitary provisions of the barber act, or any of its amendments, and provided, further, that no other or additional license, or fee, shall be imposed upon barbers, or barber apprentices, by any municipality or other subdivision of the State of Montana.

Inspection license fees.

E. *In addition to the fees and charges now provided by existing law, all barber shops heretofore established, and which have been under the inspection of the board of barber examiners, shall pay an annual license fee of one ($1.00) dollar. Barber shops hereafter established shall pay an initial inspection license fee of fifteen ($15.00) dollars for the first year or portion thereof, and shall pay an annual license fee of one ($1.00) dollar for each calendar year thereafter.*

Expiration date of licenses.

F. *All barber shops, schools or college licenses shall expire on the 31st day of May of each year, following the issuance of said license, and every owner or manager of a barber shop, school or college which continues in active operation shall annually, on or before May 31st renew his barber shop, school or college license and pay the required fee.*

Every barber shop, school or college license which has not been renewed during the month of May in any year shall expire on the 31st day of May in that year, and for the restoration of an expired barber shop license the fee shall be ten ($10.00) dollars, and for an expired barber school or college license, the fee shall be fifty-five ($55.00) dollars."

Sec. 3228.30, R. C. 1935, amended.

Section 7. That Section 3228.30 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Barbering without having certificate forbidden.

"Section 3228.30. After June 1, 1939, no person shall practice or attempt to practice barbering or serve or attempt to serve as a barber apprentice without first having

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received from the board *of barber examiners* a certificate of registration.

After June 1, 1939, it shall be unlawful to operate a barber shop, school or college unless it has first been duly licensed by the board under the provisions of this act.''

Operating a shop without having license unlawful.

Section 8. A new section shall be enacted, to be known as Section 3228.31, to read as follows:

''Section 3228.31. If any portion of this act is declared unconstitutional by a court of competent jurisdiction, it shall not affect the validity of the remainder of the act which can be given effect without the invalid portion.''

Separability of act.

Section 9. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 10. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 11, 1939.

CHAPTER 151

An Act to Amend Section 2634.1 of the Revised Codes of Montana, 1935, Relating to Egg Dealers' License Fees; to Amend Section 2634.5 of the Revised Codes of Montana, 1935, Relating to a Certificate of Candling; to Amend Section 2634.6 of the Revised Codes of Montana, 1935, Defining Eggs Unfit for Human Consumption; to Amend Section 2634.7 of the Revised Codes of Montana, 1935, Relating to the Importation of Eggs; to amend Section 2634.8 of the Revised Codes of Montana, 1935, Relating to Notice to Purchaser of Grade of Eggs; to Amend Section 2634.9 of the Revised Codes of Montana, 1935, Relating to Content of Invoice; to Amend Section 2634.11 Revised Codes of Montana, 1935, Relating to Penalties; Adding a New Section to the Revised Codes of Montana, 1935, to Be Known as Section 2634.12, Relating to the Montana State Egg Seal; Adding a New Section to the Revised Codes of Montana, 1935, to Be Known as Section 2634.13, Relating to Licensed Egg Graders; Adding a New Section to the Revised Codes of Montana, 1935, to Be Known as Section 2634.14, Relating to Revocation of Licenses; and Repealing All Acts and Parts of Acts in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2634.1, R. C. 1935, amended.

Section 1. That Section 2634.1 of the Revised Codes of Montana, 1935, be, and the same is, hereby amended to read as follows:

Egg dealers' license.

"Section 2634.1. **Egg Dealers' License—Fee.** Every person engaged in the business of buying, selling or dealing in eggs, *except those persons or firms who do not buy and sell more than an average of 25 cases of eggs per month for any one year,* other than those *produced by fowls owned by such persons,* shall obtain a license from the commissioner of agriculture for each establishment at which said business is conducted, and shall render to the commissioner of agriculture such reports as may be requested by said commissioner. The fee for such license shall be *two dollars ($2.00) per year* for dealers buying eggs for *sale at retail.* The fee for such license shall be twenty dollars ($20.00) *per year* for dealers buying eggs for resale at wholesale. *All licenses* shall be posted in a conspicuous place in each place of business. Licenses shall expire March 31st each year after the date of issuance."

Fee.

Sec. 2634.5, R. C. 1935, amended.

Section 2. That Section 2634.5 of the Revised Codes of Montana, 1935, be, and the same is, hereby amended to read as follows:

Certificate of candling.

"Section 2634.5. **Certificate of Candling.** Every person buying eggs for resale *at retail, except persons or firms who do not buy and sell more than 25 cases of eggs per month,* shall candle all eggs offered to him, *which have not been candled by a licensed egg grader;* and he shall refuse to buy eggs unfit for human food as defined in Section 2634.6. "Rejects" shall be returned to the producer, if possible, or, if requested, the candling shall be done in the presence of the producer. A certificate shall be placed on the top layer of every case of eggs *if candled and graded, which should state exact grade and size, also* date of candling, by whom candled and license number of licensee. *If not candled, or graded, the certificate should state "not candled or graded", the name of the dealer and when packed.* Such certificate shall be printed on card or sheets of paper not smaller in size than 2⅜ by 4¼ inches."

Sec. 2634.6, R. C. 1935, amended.

Section 3. That Section 2634.6 of the Revised Codes of Montana, 1935, be, and the same is, hereby amended to read as follows:

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"Section 2634.6. **Egg Defined as Unfit for Human Food.** Eggs hereinafter defined shall be deemed unfit for human food:

Eggs defined as unfit for human food.

(a) "Addled", or "white rot" means an egg that is putrid or rotten.

(b) "Moldy" means an egg which, through improper care, has deteriorated so that mold spores have formed within the egg.

(c) *"Blood spot" is a spot of blood adhering to the yolk of an egg.*

(d) "Black rot" means an egg which has deteriorated to such an extent that the whole interior presents a blackened appearance.

(e) "Blood ring" means an egg in which the germ has developed to such an extent that blood is formed.

(f) "Adherent yolk" means an egg in which the yolk has become fastened to the shell.

(g) "Incubated eggs" shall include eggs which have been subjected to incubation, whether natural or artificial, for more than forty-eight (48) hours, and it shall be unlawful to offer for sale incubated eggs unless branded or stamped with the word "incubated".

(h) *"Bloody white" means an egg with a general reddish appearance due to blood mixed through it and which egg may show spots of blood floating in the white.*

(i) *"Meat spot" means that the egg has a speck of foreign matter adhering to the yolk or floating in the white."*

Section 4. That Section 2634.7 of the Revised Codes of Montana, 1935, be, and the same is, hereby amended to read as follows:

Sec. 2634.7, R. C. 1935, amended.

"Section 2634.7. **Imported Eggs—Labeling "Imported Eggs".** All eggs imported into the State of Montana from other states or foreign countries shall be sold as such. *All such eggs sold in Montana must comply with the requirements of this act and must be inspected and passed by licensed Montana egg graders.* The case or container in which they are shipped shall have the words "foreign eggs" or the word "eggs" preceded by the name of the

Imported eggs.

Labels and signs required.

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country or state where produced displayed thereon in letters two inches high. All retailers of said eggs shall sell them from the container in which he received them and shall inform each purchaser that said eggs are foreign eggs. All restaurants, hotels, cafes, bakeries and confectioners using or serving foreign eggs in any form must place a sign in letters not less than four (4) inches in size in some conspicuous place, where the customer entering their place of business can see it, to read "we use foreign eggs", or the same words with the exception that the name of the country or state where the eggs were produced may be substituted for the term "foreign".

Sec. 2634.8, R. C. 1935, amended.

Section 5. That Section 2634.8 of the Revised Codes of Montana, 1935, be, and the same is, hereby amended to read as follows:

Notice to purchaser of grade of eggs.

"Section 2634.8. **Notice to Purchaser of Grade of Eggs.** It shall be unlawful for any person to sell, offer or expose for sale *at wholesale or retail* any eggs for human consumption, without notifying the person or persons purchasing or intending to purchase the same, of the exact grade or quality and size or weight of such eggs, according to the standards prescribed by the commissioner of agriculture, by stamping or printing on the container of any such eggs, such grade or quality and size or weight, *and* in the case said eggs are offered for sale in bulk, without *also* displaying in a conspicuous place at the point where such eggs are offered or exposed for sale, a placard or sign printed in letters two (2) inches high, giving such grade, quality, size and weight *and date of grading without placing a Montana state egg seal upon each carton, bag or other container in which eggs are sold, delivered or offered for sale at retail to the consumer. Provided, that this act shall not affect the sale of eggs by the producers when the consumer purchased said eggs at the place of production.*"

Sec. 2634.9, R. C. 1935, amended.

Section 6. That Section 2634.9 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Invoice to show grade of eggs.

"Section 2634.9. **Invoice to Show Grade of Eggs.** Every person other than the producer, *except persons or firms who do not sell more than 25 cases of eggs per month, in selling eggs to a retailer*, shall furnish to such retailer an invoice showing the exact grade or quality of such

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eggs according to standards prescribed by the commissioner of agriculture.

Section 7. That Section 2634.11 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 2634.11, R. C. 1935, amended.

"Section 2634.11. **Penalties.** Every person failing to comply with the requirements of this act *or any provisions of this act* shall be guilty of a misdemeanor and upon conviction for the first offense shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than seventy-five dollars ($75.00). Upon conviction for the second or any subsequent violation of the foregoing provisions of the act the violator shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00)." Penalties.

Section 8. That a new section to be known as Section 2634.12 be added to Chapter 240 of Volume 2 of the Political Code of the Revised Codes of Montana, 1935, to read as follows:

"Section 2634.12. **Montana State Egg Seal.** The commissioner of agriculture is hereby authorized and it shall be his duty to provide and make available a suitable gummed paper seal to be known as the Montana state egg seal; and he shall have the power from time to time to establish the price at which said seal shall be sold, but in no case shall the cost of such seal exceed one and three-quarters mills (1¾) per dozen eggs. The proceeds from the sale of said seals shall be expended by the commissioner of agriculture to assist in defraying salaries and expenses incurred in the enforcement of the provisions of this act." Montana state egg seal.

Section 9. That a new section to be known as Section 2634.13 be added to Chapter 240 of Volume 2 of the Political Code of the Revised Codes of Montana, 1935, to read as follows:

"Section 2634.13. **Licensed Egg Graders.** All wholesale and retail dealers who handle more than twenty-five (25) cases of eggs per month supplying eggs to consumers must employ only experienced and licensed graders. The fee for grader's license shall be one dollar ($1.00) per year. All candlers and graders must pass an examination Licensed egg graders.

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as required by the commissioner of agriculture. The license shall expire March 31st each year after the date of issuance."

Section 10. That a new section to be known as Section 2634.14 be added to Chapter 240 of Volume 2 of the Political Code of the Revised Codes of Montana, 1935, to read as follows:

Revocation of license.

"Section 2634.14. **Revocation of License.** All licenses issued by the department under this act may be revoked by the commissioner of agriculture or his agents in the State of Montana, whenever the holder of such license shall fail to comply with the laws of the State of Montana relative to the conducting of his place of business under such license. If any firm, person or corporation whose license has been so revoked by the commissioner shall thereafter continue to buy, sell or deal in eggs without a license, he shall be deemed guilty of a misdemeanor and shall be subject to the penalties of this act herein provided."

Disposition of funds derived from licenses.

Section 11. All funds derived from the licenses herein provided and from the sale of the Montana state egg seal shall be paid to the state treasurer and by him credited to the revolving fund of the dairy division of the department of agriculture, labor and industry.

Separability of act.

Section 12. If any section or part, word or phrase of this act is held to be unconstitutional, it is the declaration of the legislature that this act would have been passed without such section, part, word or phrase, and any decision as to the constitutionality of any section, part, word or phrase shall not affect the validity of any other part of this act.

Repealing clause.

Section 13. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 14. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

CHAPTER 152

An Act to Amend Section 11737 of the Revised Codes of Montana of 1935, Relating *to What Peace Officers*

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Warrants Are to Be Directed, When and How Executed in Another County, *Executed by What Officers and Arrest,* and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 11737 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Sec. 11737, R. C. 1935, amended.

"Section 11737. *To What Peace Officers Warrants Are to Be Directed,* **When and How Executed in Another County,** *Executed by What Officers and Arrest.* If it is issued by any other magistrate it may be directed generally to any sheriff, constable, marshal, or policeman in the county in which it is issued, and may be executed by such officer in any part of the state, *and if the complaint, on which the warrant is issued, has been subscribed and sworn to by the county attorney of the county in which it was issued, the warrant may be executed by any of those officers to whom it may be delivered in any part of the state, in which case the arrest may also be made by telegraph in the same manner as provided in Sections 11767 and 11768 of this code."* To what peace officers warrants may be directed. Arrest in another county by telegraph.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 11, 1939.

CHAPTER 153

An Act to Amend Section 8706, Revised Codes of Montana, 1935, by Adding Thereto a Subsection, to Be Known as 8706.1, Relative to the Damages That May Be Recovered in Civil Actions Against Public Officers, Growing Out of the Discharge of the Duties of the Office.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. *Section 8706, Revised Codes of Montana, 1935, is hereby amended so as to add thereto a subsection, to be known as 8706.1, reading as follows:* Sec. 8706, R. C. 1935, amended.

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Damages recoverable in personal injury actions against county commissioners.

"Subsection 8706.1. *In civil actions against boards of county commissioners or members thereof to recover damages for personal injuries arising out of or from breach of duty relative to the condition of roads, highways or bridges, only nominal damages shall be recovered unless it be established by the evidence that the action or non-action complained of was a wilful or a gross neglect of duty.*"

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

CHAPTER 154

An Act to Repeal Section 24 of the Revised Codes of Montana, 1935, Relating to Acquisition of Lands by the United States.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 24, R. C. 1935, repealed.

Section 1. That Section 24 of the Revised Codes of Montana, 1935, be, and the same is hereby repealed.

Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

CHAPTER 155

An Act to Amend Section 25 of the Revised Codes of Montana of 1935, providing for Exclusive Jurisdiction of the United States and for the Withdrawal of the Act of the Second Legislative Assembly of the State of Montana Approved March 5, 1891, and the Act of the Third Legislative Assembly of the State of Montana Amending the Act of March 5, 1891, and Repealing All Acts and Parts of Acts in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 25 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 25, R. C. 1935, amended.

"Section 25. Pursuant to Article 1, Section 8, Paragraph 17 of the Constitution of the United States, consent to purchase is hereby given, and exclusive jurisdiction ceded, to the United States over and with respect to any lands within the limits of this State, which shall be acquired *by the complete purchase by* the United States, for any of the purposes described in said paragraph of the Constitution of the United States, said jurisdiction to continue as long as said lands are held and occupied by the United States for *said* purposes; reserving, however, to this State *the right to serve and execute* civil or criminal *process* lawfully issued by the courts of the State, *within the limits of the territory over which jurisdiction is ceded in any suits or transactions for or on account of any rights obtained, obligations incurred, or crimes committed in this State, within or without such territory; and reserving further to the said State the right to tax persons and corporations, their franchises and property within said territory; and reserving further to the State and its inhabitants and citizens the right to fish and hunt, and the right of access, ingress and egress to and through said ceded territory to all persons owning or controlling livestock for the purpose of watering the same, and saving further to the State of Montana jurisdiction in the enforcement of State laws relating to the duties of the livestock sanitary board and the state board of health, and the enforcement of any regulations promulgated by said boards in accordance with the laws of the State of Montana; provided, however, that jurisdiction shall not vest until the United States, through the proper officers,* shall file an accurate map or plat and description by metes and bounds of said lands in the office of the county clerk and recorder of the county in which *said lands* are situated, and if such lands shall be within the corporate limits of any city, such map or plat shall also be filed in the office of the city clerk of said city, *and the filing of such map as herein provided, shall constitute acceptance of the jurisdiction by the United States as herein ceded. The offer by the State of Montana to cede to the federal government legislative jurisdiction over areas within the*

Jurisdiction over lands purchased by the United States.

Reservation of certain rights.

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State of Montana as contained in the act of the second legislative assembly of the State of Montana, 1891, entitled: 'An act giving the consent of the State of Montana to the purchase, by the United States, of land in any city or town of the State, for the purpose of United States court house, post-office and for other purposes' approved March 5, 1891, as amended by the act of the third legislative assembly of 1893, an act entitled: 'An act giving the consent of the State of Montana to the purchase by the United States of land in any city or town of the State for the purpose of United States court house, post-offices and for other like purposes', approved March 9, 1893, is hereby withdrawn except as to areas heretofore completely purchased or acquired by the federal government and over which areas the federal government has heretofore assumed either exclusive legislative jurisdiction or concurrent legislative jurisdiction under the terms of one or the other of said acts."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

CHAPTER 156

An Act to Amend Sections 372 and 1556 of the Revised Codes of Montana, 1935, Relating to the Collection of Fees by the Clerk of the Supreme Court, Providing for the Distribution Thereof, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 372, R. C. 1935, amended.

Section 1. That Section 372 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Fees.

"Section 372. **Fees.** He must collect in advance the following fees: For filing the transcript on appeal, in each civil case appealed to the supreme court, ten dollars payable by the appellant, and five dollars payable by

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respondent, at the time of his appearance, in full for all services rendered in each case, up to the remittitur to the court below; for filing petition for any writ, ten dollars, in full for all services rendered in each cause; for certificate of admission as attorney and counselor, five dollars; for making transcripts, copies of papers or record, fifteen cents per folio; for comparing any document requiring a certificate, five cents per folio; for each certificate under seal, one dollar.

All fees collected by him must be paid into the state treasury, *fifty per cent* thereof to the credit of the general fund, and *fifty per cent* thereof to the credit of the state *law* library fund."

Sec. 1556, R. C. 1935, amended.

Section 2. That Section 1556 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Library funds.

"1556. **Library Funds.** The fund of the law library department of the state library consists of *fifty* per cent. of all fees collected and paid into the state treasury by the clerk of the supreme court, and any appropriations especially made for this department by the legislative assembly; if any part of said fund be not expended in any year, said balance shall not be covered back in the general fund at the end of the fiscal year, but the same shall be reserved and set apart as a surplus fund for the purchase of books for the law library, and the board of trustees of the law library department of the state library is hereby empowered and authorized to draw from the state treasury, at any time when needed for the purchase of additional books, any moneys belonging to said surplus fund. The fund of the historical and miscellaneous department of the state library consists of the receipts from the sale of any of its publications authorized to be sold, and of any appropriations especially made in its behalf by the legislative assembly."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

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CHAPTER 157

An Act Relating to the Use of County Road and Highway Machinery and Equipment Upon the Streets, Avenues and Alleys of Incorporated Cities and Towns.

Be it enacted by the Legislative Assembly of the State of Montana:

Use of county highway equipment in cities and towns, when permissible.

Section 1. The board of county commissioners of any county may, in their discretion, authorize and permit the use of any county highway or road machinery or equipment, when not in use in any rural district, in connection with the construction, repair and maintenance of streets, avenues and alleys within any incorporated city or town of four thousand population or less located in such county.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

CHAPTER 158

An Act providing for the Establishment of Junior Colleges in County High Schools and in School Districts Maintaining Accredited High Schools; Providing for the Maintenance and Support of Such Junior Colleges, Regulating Their Courses of Study, Administration and Operation and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Definition of terms.

Section 1. **Definition of Terms.** The word "superintendent" as used in this act shall mean the superintendent of a district high school and the word "principal" as used in this act, means the principal of a county high school organized under the laws of the State of Montana. A "junior college" is hereby defined to be a public school established as provided in this act, in connection with accredited high schools for the purpose of providing one or more two year courses beyond those of the four year high school.

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Method of establishment.

Section 2. **Method of Establishment.** County high school boards or district high school boards operating accredited schools shall have authority to establish and maintain in such schools in the manner provided in this act, a department of junior college work, to consist of not more than two years work beyond the four year high school course. Whenever a county high school board or a district high school board operating an accredited high school shall receive a petition in writing signed by not less than twenty-five per cent of the registered voters of the county, in case the petition be filed with the county high school board, or by not less than twenty-five per cent of the registered voters of the school district in case such petition is filed with a district school board, requesting the establishment in such school of a department of junior college work, the board shall spread said petition upon its minutes. If said petition is found by the board to be signed by the requisite number of qualified voters, as disclosed by the registration lists for the last preceding election, the board shall not later than its next regular meeting, communicate to the state superintendent of public instruction the fact of the filing of such petition together with such pertinent facts and information as the board may have regarding the desirability of establishing such junior college department, together with the recommendations of the board relative to said matter. The board may also on its own initiative, and without the filing of any petition, adopt and spread upon its minutes a resolution requesting the establishment of such junior college and shall submit the same to the state superintendent of public instruction for his approval.

Approval of superintendent of public instruction.

Section 3. **Approval of Superintendent of Public Instruction.** The state superintendent of public instruction shall consider all such petitions submitted by county or district high school boards and may, if he deem it advisable, conduct an independent investigation with a view to determining the desirability of granting such petition. If the superintendent of public instruction shall approve of the granting of such petition, he shall notify the county or district high school boards of his approval of the petition. The county or district high school board shall thereupon submit to the registered voters of the county or district the question whether or not a junior

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college shall be established in their said county or district high school.

Election.

Section 4. **Election.** In any election held under the terms of this act, all qualified voters of the county or district shall be entitled to vote. All such elections shall be called, noticed, held, canvassed and returned in the manner provided by law for the submission in such county or school district of the question of a bond issue for the purpose of building, enlarging, altering or acquiring by purchase a school house and the purchase of necessary lands therefor.

Establishment of junior colleges upon approval of electors.

Section 5. **Establishment of Junior College Upon Approval of Electors.** If a majority of the votes cast at any election provided for in this act be in favor of the establishment of a junior college, the county or district high school board shall proceed to establish such junior college in the following manner: Not later than September first of the first year in which such junior college is proposed to be established, the county or district high school board shall apply to the superintendent of public instruction for permission to open such junior college, and shall accompany such application with a full statement of the curricula to be maintained and an application on behalf of the high school to be classified as a junior college. If the state superintendent of public instruction approves the application, he shall so notify the state board of education, which shall finally approve or disapprove of the establishment of such proposed junior college, and shall promptly notify the county or district high school board of its action. Upon receiving the final approval of the state board of education, the county or district high school boards shall have authority to proceed with the establishment and operation of such junior college.

Location and faculty.

Section 6. **Location and Faculty.** Every junior college shall be located in either a county maintaining a county high school or in a school district which maintains an accredited high school. There shall be employed for each such junior college a dean and at least the equivalent in point of teaching time of two or more junior college teachers who, together with the superintendent of the district high school or the principal of the county high school, shall constitute the faculty of the junior college.

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Section 7. **Powers of State Superintendent of Public Instruction.** The state superintendent of public instruction shall have and exercise the same supervision, control and power over all junior colleges established hereunder, as he now has over other departments of the public school system.

Powers of state superintendent of public instruction.

Section 8. **General Administration.** Subject to the control of the state superintendent of public instruction, the superintendent of the district high school or the principal of the county high school, shall administer and exercise general supervision over the junior college, and shall make such reports as the state superintendent of public instruction may require. All teachers in junior colleges shall be employed in the same manner as now provided by law for the employment of high school teachers. Such superintendent or principal shall examine the certification of all persons under consideration as teachers in a junior college, and shall recommend for employment only such persons as are found to be fully qualified in accordance with the standards established by the state board of education and those standards hereinafter specified. He shall also keep a record of such certification and on or before October first of each year, shall transmit a copy of this record to the state superintendent of public instruction.

General administration.

Section 9. **Tuition and Budgeting.** The county high school board or district high school board shall be authorized to include in their budget a sufficient sum to operate and maintain the junior college departments as herein provided, the amount of such budget to be left to their determination. Such boards are also empowered in their discretion, when they shall deem it necessary, to charge tuition at a maximum rate of not exceeding one hundred twenty-five and no/100 ($125.00) dollars per year for attendance at junior colleges established under the terms of this act.

Tuition and budgeting.

Section 10. The following requirements shall govern the operation of all junior colleges:

a. A junior college shall be established in any county or school district only when the assessed taxable valuation of such county or school district exceeds $3,000,000.

Requirements governing establishment and operation of junior colleges.

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b. The building space available for the use of a junior college must be modern, adequate and well adapted to the needs of the work to be undertaken.

c. There shall be provided a general and reference library, well chosen and adequate for the courses offered and for the size of the enrollment in the junior college.

d. Suitable laboratory space and equipment must be provided for such advanced work in the natural sciences as is included in the courses offered.

e. Not counting the superintendent or principal of the county high school, there must be provided a faculty of not fewer than two members.

f. The superintendent or principal of the county high school shall prescribe the duties of the dean and such duties may be made to include instruction, organization, classification, discipline and management of the junior college.

g. The junior college year shall consist of at least nine months, or thirty-six weeks.

h. The minimum length of a recitation period shall be fifty minutes.

Classes of students.

Section 11. **Classes of Students.** Two classes of students may be admitted to a junior college.

a. Regular students limited to those who have completed, in a satisfactory manner, a full high school course or its equivalent.

b. Special students who wish to pursue special courses of college rank and who are deemed by the local authority fully qualified to do so.

Requirement for diploma.

No school board or high school board shall under any condition, issue to any person a certificate or diploma showing the completion of a junior college course except upon the recommendation of the superintendent of the district high school or principal of the county high school, and a two-year certificate or diploma shall be recommended only upon the completion in a creditable manner of at least sixty semester hours, or its equivalent, in a course approved by the state board of education.

Section 12. **Qualifications of Dean and Instructors.** The dean and all instructors in a junior college must have the following qualifications:

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a. Scholastic training of at least a master's degree or its equivalent, from a college recognized as fully entitled to confer such degree. Qualifications of dean and instructors.

b. Professional training, at least fifteen semester hours in education.

Section 13. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 14. This act shall take effect and be in full force from and after its passage and approval. Effective date.

Approved March 11, 1939.

CHAPTER 159

An Act Amending Section 1262.37 Relating to the Establishment by School Districts of High Schools.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 1262.37 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 1262.37, R. C. 1935, amended.

"Section 1262.37. Whenever the interests of any school district require it, the board of trustees of the district, with the approval of the superintendent of public instruction, may establish a high school and make the necessary provisions for its quarters, equipment, and teaching force in the manner provided for in Section 1262.38, *provided, that the transportation and payment of tuition, or the payment of board, room and tuition for the high school students of the district for the purpose of attending a high school in another district, shall be in lieu and the equivalent of establishing a high school and making the necessary provisions for its quarters, equipment, and teaching force, provided further that the total amount of transportation paid to any high school student from all sources shall not exceed the maximum amount as stipulated in Section 1010 of the Revised Codes of Montana, 1935.*" Conditions under which school district may establish a high school.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

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Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

CHAPTER 160

An Act to Provide for the Designation of Certain High Schools as Vocational Training Centers, Providing for Admission to Such Training Centers and for Rules and Regulations Governing Applicants for Admission, and Providing for Transfer of Apportionment, and for Fees.

Be it enacted by the Legislative Assembly of the State of Montana:

Designation of high schools as vocational training centers.

Section 1. The state board for vocational education may, upon the application of the board of trustees of any district high school, county high school, or high school district, maintaining a vocational training department with facilities for additional enrollment in such department, designate such high school as a vocational training center.

Branches of vocational education.

Section 2. Vocational education shall include those branches of training for which the federal government by any act of congress is, or may be authorized to compensate the states for promoting vocational education in agriculture, home economics, the trades and industries, distributive occupations, aeronautics, and the commercial branches.

Eligibility and procedure for admission to training centers.

Section 3. Vocational training centers designated by the state board for vocational education shall admit for training, on a non-tuition basis, any resident of the State of Montana, between the ages of 16 and 21 years, provided that any such resident of the State, residing out of the county wherein a vocational center is located, shall make application for admission to training on or before the first day of June of the school year preceding the opening of the next school year. Notice of the acceptance or rejection of such applicant shall be given by the local authority of the training center on or before the first of July, following receipt of the application. Notice of the acceptance of the applicant shall be pre-

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sented to the county superintendent of schools and the board of county commissioners of the applicant's residence on or before the 15th day of July.

Attendance of persons residing in another county.

Section 4. When attendance of any eligible person between the ages of 16 and 21 years at a designated vocational training center, outside of the county of his residence, is authorized, as provided in Section 3 of this act, the board of county commissioners of the county of such residence must forthwith direct the county treasurer to pay from the high school transfer fund to the board of trustees of the school district, high school district or county high school designated as a vocational training center at which attendance has been authorized the sum of fifty cents (50c) per day for each and every day of attendance at the time of the June apportionment, provided that attendance for less than thirty-five days shall not be counted, and further provided that the total amount apportioned for each attendant for each school year shall not exceed the sum of $90.00. The names of all applicants entitled to admission to the training center who are residents of the county wherein such center is located, shall be added to the list of those eligible to be counted for high school attendance.

Rules and regulations governing admission.

Section 5. Rules and regulations governing admission of all applicants to vocational training centers shall be promulgated by the state board for vocational education, and shall be applied uniformly to all applicants.

Admission of adults upon payment of tuition.

Section 6. Applicants who have passed their 21st birthday may be admitted to designated vocational training centers upon the payment of a tuition, the amount of such tuition shall be fixed by the state board for vocational education.

Fees chargeable.

Section 7. Fees for the use of equipment and material used in training may be charged by the board of trustees of the vocational training center.

Repealing clause.

Section 8. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 9. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1939.

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CHAPTER 161

An Act to Create the Montana Armory Board and to Define Its Powers and Duties.

Be it enacted by the Legislative Assembly of the State of Montana:

Montana armory board created.

Section 1. For the purposes herein provided there is created the Montana armory board, to consist of five members appointed by the governor, one of whom shall be designated by the governor as chairman of said board. Any vacancy in said board shall be filled by appointment in the same manner.

Its legal status.

Section 2. This board is hereby made a body politic and corporate, and shall have the name of "Montana armory board."

Organization and meetings.

Section 3. The board shall organize by selecting from its membership a secretary and treasurer, and said board may change such officers from time to time. Three members shall constitute a quorum at all meetings, provided all members have been notified of such meetings. The board shall hold its first meeting on the first Tuesday in April, 1939, and thereafter all meetings shall be held as provided by the by-laws of the board.

Powers.

Section 4. The Montana armory board shall possess all the powers as a body corporate necessary and convenient to accomplish the objects and purposes prescribed by this act, including the following, which, however, shall not be construed as a limitation upon the general powers hereby conferred:

(a) To enter into contracts and be contracted with in any matter connected with any corporate purpose, herein defined.

(b) To borrow money and issue bonds, and to pledge any and all property and income of such board acquired or received as herein provided, to secure the payment of such bonds, and to redeem such bonds.

(c) To sue and be sued.

(d) To acquire, hold and convey real or personal property, by gift or purchase for armory purposes.

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(e) To donate such property to the State of Montana if and when all debts which have been secured by such property or by the income thereof, have been paid.

To purchase buildings and sites.

(f) To purchase sites and buildings or to purchase sites and construct buildings for armory purposes, provided that the board of county commissioners of the county wherein said site or building is to be purchased or a building constructed, shall give their written approval of said purchase or construction.

(g) To execute leases of buildings and sites to the State of Montana for armory purposes, and in the event of nonpayment of any rents reserved in such leases, to execute leases thereof, to others for any suitable purpose, on such terms as the board may fix. Such leases to the State of Montana shall be subject to appropriations to be made by the legislative assembly, for the payment of rent under such leases. The rent charged the State of Montana shall not be in excess of the amount necessary for the retirement of bonds secured by the property leased to the State, and other expenses incident thereto, including cost of operation.

To employ agents and employees.

(h) To employ agents and employees necessary to carry out the objects and purposes of the board as herein expressed.

(i) To have and use a common seal and to alter the same at pleasure.

To adopt by-laws, rules and regulations.

(j) To adopt all needful by-laws, rules and regulations for the conduct of the business and affairs of such board and for the management and use of such sites and buildings acquired for armory purposes, consistent with the objects and purposes of such board.

(k) To have and exercise all powers and be subject to all duties usually incident to boards of directors of corporations.

Compensation of members.

Section 5. No members of such board shall receive any compensation for services rendered under this act, except for necessary expenses incurred in performing duties prescribed by this act, provided that any and all expense claims shall be verified and be accompanied by vouchers and shall be approved by the chairman of said board of directors before payment.

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Objects of board.

Section 6. The objects of said board shall be to foster and build state armories in the State of Montana.

Effective date.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Repealing clause.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1939.

CHAPTER 162

An Act to Amend Section 2091.1 of the Revised Codes of Montana, 1935, Relating to Taxation and Payment on Royalty Interests on the Production of Petroleum and Natural Gas, and Production From Metalliferous Mines, and Providing the Method of Assessment of Each Class of Royalty Interests.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2091.1, R. C. 1935, amended.

Section 1. That Section 2091.1 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Taxation and payment on royalty interests.

"Section 2091.1. **Taxation and Payment on Royalty Interests.** At the time of transmitting net proceeds assessments the state board of equalization shall also transmit the royalty lists or schedules to the county clerk of each county in which such mines and mining claims are located and thereupon the county clerk shall prepare from such net proceeds and royalty assessments a tax roll which shall be by him furnished to the county treasurer on or before the twentieth day of August following, upon which date said taxes shall be due and payable. *Assessments of petroleum and natural gas royalties shall be entered by the county clerk in the personal property assessment book under the name of the producer,* and such assessments of royalty when entered shall have all the force and effect as if made in the names of the owners of such royalty individually as well as against the operator. The county treasurer shall proceed to give full notice thereof to such operator and to collect the same in manner provided by law. The operator or producer shall be liable for the payment of said taxes, and same shall be payable

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by and shall be collected from such operators in the same manner and under the same penalties as provided for the collection of taxes upon net proceeds of mines; provided, however, that after payment of such tax such operator may recover or withhold from any proceeds of royalty interest, either in kind or in money, coming into his hands, the amount of any tax paid by him upon such royalty or royalty interest.

Royalty on production of metals and minerals other than oil and gas.

Assessments of royalty on production of metals, and minerals other than petroleum and natural gas, shall be entered by the county clerk in the personal property assessment book in the name of the recipient or owner of such royalty. The county treasurer shall proceed to give full notice thereof to such recipient or royalty owner, and to collect the taxes thereon in the same manner as taxes on net proceeds of mines."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

CHAPTER 163

An Act Requiring Licenses for the Operation, Maintenance, Opening or Establishment of Stores in This State; the Classifying of Such Stores, Prescribing the License and Filing Fees to Be Paid Therefor and the Disposition Thereof; and the Powers and Duties of the State Board of Equalization in Connection Therewith; and Prescribing Penalties for the Violation Thereof and Repealing Sections 2420.1, 2420.2, 2420.3, 2420.4, 2420.5, 2420.6, 2420.7, 2420.8, 2420.9, 2420.10 and 2420.11, Revised Codes of Montana, 1935.

Be it enacted by the Legislative Assembly of the State of Montana:

License to open or operate a store.

Section 1. That it shall be unlawful for any person, firm, corporation, association or co-partnership, either foreign or domestic, to open, establish, operate or maintain any store or stores in this State without first having obtained a license to do so from the state board of equalization, as hereinafter provided.

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Application for license.

Section 2. Any person, firm, corporation, association, co-partnership or group desiring to open, establish, operate or maintain a store in the State of Montana shall apply to the state board of equalization for a license to do so. The application shall be made upon a form which shall be prescribed and furnished by the state board of equalization, and shall set forth the name of the owner, manager, trustee, lessee, stockholders, receiver or other persons desiring said license; the name of such store; the location, including street number; and all such other facts as the state board of equalization may require.

If the applicant desires to open, establish, operate or maintain more than one such store, he shall make a separate application for a license to operate, maintain, open or establish each such store, but the respective stores for which the applicant desires to secure licenses may all be listed upon one (1) application blank.

Prepayment of fees.

Each such application shall be accompanied by a filing fee of fifty cents (50c) and by the license fee as prescribed in Sections five (5) and six (6) of this act.

State board of equalization to consider applications.

Section 3. As soon as practicable after the receipt of any such application, the state board of equalization shall carefully examine such application to ascertain whether it is in proper form and contains the necessary and requisite information. If, upon examination, the state board of equalization shall find that such application is not in proper form and does not contain the necessary and requisite information, it shall return such application for correction.

If an application is found to be satisfactory, and if the filing and license fee, as herein prescribed, shall have been paid, the state board of equalization shall issue to the applicant a license for each store for which an application for a license shall have been made.

Display of license.

Each licensee shall display the license so issued in a conspicuous place in the store for which such license was issued.

Expiration date of licenses.

Section 4. All licenses shall be so issued so as to expire upon the thirty-first day of December of each calendar year. On or before the first day of January of each year, every firm, person, corporation, association, co-partnership having a license, shall apply to the state

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board of equalization for a renewal license for the calendar year next ensuing. All applications for a renewal shall be made upon forms which shall be prescribed and furnished by the state board of equalization.

Renewal of licenses.

No license shall lapse prior to the thirty-first day of January of the year next following the year for which the license was issued, and if, by such thirty-first day of January, an application for and a renewal license has not been made, the state board of equalization shall notify such delinquent license holder thereof, by registered mail, and if application is not made for a renewal license issued on or before the last day of February next ensuing, the former license shall lapse and become null and void.

Each such application for a renewal license shall be accompanied by a filing fee of fifty cents (50c) and by the license fee as prescribed in Sections five (5) and six (6) of this act.

Persons subject to terms of act.

Section 5. Every person, firm, corporation, association, co-partnership or group opening, establishing, operating or maintaining one or more retail stores or mercantile establishments, within this State, under the same general management, supervision or ownership, where a stock of goods is maintained during any portion of the year, regardless of whether said stock is held by ownership, consignment, agency or any other means, shall pay the license fee hereinafter prescribed for the privilege of opening, establishing, operating, or maintaining such stores or mercantile establishments, provided that the members of any group, association or consumer co-operative composed of independent units owning their own business and grouped or associated together by agreement or otherwise for the purpose of purchasing or selling merchandise or service for the mutual benefit of the members shall not be grouped for computing the license fee to be paid by such person, firm, corporation, association, or co-partnership or retailer under this act, but such units or members shall be taxed as individual units; and provided further, that the term "store" shall not mean or include for the purpose of computing the license fee prescribed in this Section the following types of business, but that they shall be licensed under the prescribed fees in Section six (6) of this act: Gasoline filling stations

Types of business excluded

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and/or gasoline distributing plants where seventy-five per cent. (75%) of the gross business is in petroleum products exclusively; or lumber yards where seventy-five per cent. (75%) of the gross business is in building material and hardware exclusively; or grain elevators where seventy-five per cent. (75%) of the gross business is dealing in grains and seeds exclusively; and those businesses in which the sale of goods, wares, and merchandise is less than twenty-five per cent. (25%) of the gross business.

The license fee herein prescribed shall be paid annually, and shall be in addition to the filing fees prescribed in Sections two (2) and four (4) of this act.

The annual license fees herein prescribed shall be as follows:

Amount of annual license fees.

1. Upon one store the annual license fee shall be five dollars ($5.00).

2. Upon the second store, the annual license fee shall be fifty dollars ($50.00).

3. Upon the third store, the annual license fee shall be one hundred dollars ($100.00).

4. Upon the fourth store, the annual license fee shall be one hundred and fifty dollars ($150.00).

5. Upon the fifth store, and on each store in excess of five stores, the annual license fee shall be two hundred dollars ($200.00).

Section 6. Every person, firm, corporation, association, co-partnership or group opening, establishing, operating or maintaining one or more stores or mercantile establishments within this State under the same general management, supervision or ownership, where a stock of goods is maintained during any portion of the year, regardless of whether said stock is held by ownership, consignment, agency or any other means, who deal in petroleum products, building materials, and hardware and grain elevators, and those businesses in which the sale of goods, wares and merchandise is less than twenty-five per cent. (25%) of the gross business, subject to the following restrictions: Gasoline filling stations and/or gasoline distributing plants where seventy-five per cent. (75%) of the gross business is in petroleum products

Dealers in certain products enumerated.

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exclusively; those businesses in which the sale of goods, wares and merchandise is less than twenty-five per cent. (25%) of the gross business; lumber yards where seventy-five per cent. (75%) of the gross business is in building materials and hardware exclusively; grain elevators where seventy-five per cent. (75%) of the gross business is in grains and seeds exclusively, shall pay the annual license fee prescribed in this Section for the privilege of opening, establishing, operating or maintaining such stores or mercantile establishments, but shall not be required to pay the license fees prescribed in Section five (5) of this act.

The annual license fees herein prescribed shall be paid annually, and shall be in addition to the filing fees prescribed in Sections two (2) and four (4) of this act.

The annual license fees herein prescribed shall be as follows:

Amount of annual license fees.

1. Upon one store the annual license fee shall be five dollars ($5.00).

2. Upon the second store, the annual license fee shall be seven dollars and fifty cents ($7.50).

3. Upon the third store, the annual license fee shall be fifteen dollars ($15.00).

4. Upon the fourth store, the annual license fee shall be twenty-two dollars and fifty cents ($22.50).

5. Upon the fifth store, the annual license fee shall be thirty dollars ($30.00).

6. Upon the sixth store, and each store in excess of six (6), the annual license fee shall be thirty-seven dollars and fifty cents ($37.50).

Wholesale stores.

Section 7. Wholesale stores shall be taxed in all cases as individual units at the rate of thirty-seven dollars and fifty cents ($37.50) per unit, regardless of ownership; but, whenever goods, wares, and merchandise are sold regularly at both wholesale and retail from one establishment, the operator thereof shall pay the license fee required under Section five (5) or six (6), as the case may be, for the conduct of a retail store, in addition to the wholesale license herein provided for.

Establishments selling both at wholesale and at retail.

Section 8. Each and every license issued prior to the first day of July of any year shall be charged for at the

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Half year rate.

full rate, and each and every license on or after the first day of July of any year shall be charged for at one-half (½) of the full rate, as prescribed for in Sections five (5), six (6), and seven (7) of this act.

To whom act applies.

Section 9. The provisions of this act shall be construed to apply to every person, firm, corporation, co-partnership or group, either domestic or foreign, which is controlled or held in any degree with others by majority stock ownership or ultimately controlled or directed by one management or association of ultimate management.

"Store" defined.

Section 10. The term "store" as used in this act shall be construed to mean and include any store or stores or any mercantile establishment or establishments which are owned, operated, maintained or controlled by the same person, firm, corporation, association, co-partnership, or group, either domestic or foreign, in which goods, wares or merchandise of any kind are sold, either at retail or wholesale; and subject to the classification contained in Sections five (5), six (6), and seven (7) of this act.

Penalty.

Section 11. Any person, firm, corporation, association, co-partnership or group who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum of not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200.00), and each and every day that such violation shall continue shall constitute a separate and distinct offense.

Disposition of money collected.

Section 12. The state board of equalization is hereby authorized to employ such clerical and field assistance as may be found necessary to carry out and to administer the provisions of this act. All money collected under the provisions of this act, less the expenses incurred in the administration of this act, shall be paid into the state treasury, to the credit of the general fund.

Separability of act.

Section 13. The provisions of this act are several, and if any section, provision, word or clause of this act shall be declared invalid or unconstitutional for any reason, such invalidity or unconstitutionality shall not affect or impair any of the remaining portions of this act. It is hereby declared as the intent of the legislative assembly of Montana that this act would have been adopted had such invalid portion not been included herein.

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Repealing clause.

Section 14. All acts and parts of acts in conflict herewith are hereby repealed; provided, however, that such repeal shall not affect any license tax imposed, any rights accrued, any penalty incurred or any action or proceeding commenced and not terminated, under and by virtue of any provision of any act or part of an act so repealed.

Effective date.

Section 15. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

CHAPTER 164

An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments or Obligations Heretofore Issued by Public Bodies of This State and All Proceedings Heretofore Taken for the Authorization and Issuance of Bonds by Such Public Bodies.

Be it enacted by the Legislative Assembly of the State of Montana:

Short title.

Section 1. This act may be cited as "the 1939 bond validating act".

Definitions.

Section 2. The following terms, wherever used or referred to in this act, shall have the following meaning:

"Public body."

(a) The term "public body" shall include a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other political or governmental subdivision of the State of Montana, and shall also include the state board of education, the state board of examiners, the state water conservation board, the state highway commission or any other governmental agency of this State.

"Bonds."

(b) The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

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Validation of bonds previously issued by public bodies.

Section 3. All bonds heretofore issued for any of the purposes for which bonds may be issued by any public body of this State and all proceedings heretofore taken for the authorization and issuance of bonds by such public body, and the sale, exchange, execution and delivery thereof are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, exchange, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, exchange, execution or delivery; and bonds of such public bodies, whether issued or hereafter issued under the authority of proceedings heretofore taken, are and shall be binding, legal, valid and enforceable obligations of such public body, provided, however, that the provisions of this act shall not have any application to bonds, debentures or other obligations with regard to which any action or actions have heretofore been instituted and are now pending for the purpose of having the validity thereof determined judicially.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1939.

CHAPTER 165

An Act to Provide for the Repayment of the Short Rate Amount of Premiums Paid Under the State Fire Insurance Act by Counties and School Districts, for the Unused Portion of Such Premiums.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The state auditor and ex-officio commissioner of insurance who was charged with the writing of policies and collecting premiums thereon under the state insurance act, Chapter 179, Session Laws of 1935, repealed by referendum No. 37 in November, 1936, and proclaimed so repealed by the governor, December 2, 1936, is hereby authorized and directed to collect any

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premiums earned on such policies written during the time the said insurance law was in effect. The state auditor and ex-officio commisisoner of insurance shall bill each school district or county which made application for insurance under the law, and for which application, a policy was written and placed in effect for the amount of premium earned during the life of the policy on a short rate basis. If said school district or county shall disregard such bill or notice to pay, and neglect or refuse to pay, then the state auditor and ex-officio commissioner of insurance shall certify such amount as unpaid, in the case of school districts, to the superintendent of public instruction and the state treasurer, and on the next distribution to said school district of moneys from the state common school equalization fund, or public school general fund, the amount so due the state insurance fund shall be withheld from any amounts due or to become due to said district and placed to the credit of the state insurance premium fund. In the case of counties, if the payment of the amount due is not made upon request, then the state auditor and ex-officio insurance commissioner shall certify the amount due and unpaid, to the state board of equalization and the state treasurer, and the amount so due shall be withheld from any payments due said counties from any funds that may come into the possession of the said board of equalization or state treasurer for distribution to said county and placed to the credit of the state insurance premium fund.

Earned premium on state insurance to be collected from school districts and counties.

Section 2. All moneys received by the state auditor and ex-officio commissioner of insurance for payment of premiums and all funds withheld as provided above shall be placed in the state treasury to the credit of the state insurance premium fund account.

Disposition of moneys received.

Section 3. The state auditor and ex-officio commissioner of insurance shall determine the amounts due and payable to various school districts and counties that paid premiums for insurance policies written under the above state insurance act. He shall compute such amounts on a short rate basis for the term the insurance was not in effect. He shall certify these amounts to the state board of examiners and the state board of examiners is hereby instructed and directed to refund, by state warrant, to the counties and school districts such amounts as are so certified, from the state insurance premium

Refunds.

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fund. The board of examiners shall approve for payment claims for such refunds in the order in which such claims are presented, and as funds accumulate in the state insurance premium fund from collections made by the state auditor and ex-officio commissioner of insurance.

Computation of amount of premiums and refunds.

Section 4. The state auditor and ex-officio commissioner of insurance shall compute premiums and refunds due on a short rate basis. In case partial payments have been made by any political unit of the state, or in case several policies have been issued for one such political unit and some of the premiums have been paid on such policy and others are still unpaid, then he shall offset and certify the net amount due the state insurance premium fund or other political unit as the case may be.

Unpaid premiums owed by state.

Section 5. In order that the state insurance premium fund may be reimbursed for unpaid premiums on state owned property insured under Chapter 179, Session Laws of 1935, the board of examiners shall approve for payment the amount owing as certified to it by the state auditor and ex-officio insurance commissioner, and in addition the amount of credit received from the reinsurance company December 2, 1936, to apply on an insurance policy covering state property, said claim or claims to be paid from the current appropriations made for insurance of state property.

Separability of act.

Section 6. If any clause, sentence, paragraph or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 8. This act shall be in full force and affect from and after its passage and approval by the governor.

Approved March 15, 1939.

CHAPTER 166

An Act to Amend Section 1263.5 of the Revised Codes of Montana, 1935, Relating to High School Budgets.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1263.5 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 1263.5, R. C. 1935, amended.

"Section 1263.5. **Budget Meeting—Restriction on Appropriations — Maximum Allowance Per Pupil — Extra Levy — Computation of Attendance.** The board of trustees of every district maintaining a high school and of every county high school, shall meet at the regular place of meeting of the board on the second Monday in June and consider, prepare and adopt a preliminary budget for the next ensuing school year for all high school purposes, and any taxpayer may appear at such meeting and be heard in regard to the preliminary budget. Such meeting may be continued from day to day, but not exceeding three (3) days in all for third class high school districts, or five (5) days in all for first and second class high school districts and county high schools. The total amount appropriated in Part I of the preliminary budget for any high school shall not exceed the total amount of estimated receipts for the general fund of such high school, as set out in the county superintendent's estimate of high school revenues, contained in the budget form, and the total amount appropriated in Part I of the preliminary budget for any high school shall not, in any event, exceed per eligible pupil enrolled and in regular attendance for forty (40) days or more, during the then current high school year in which the preliminary budget is adopted, the following maximums: (a) For a school enrolling sixty (60) or fewer pupils the budget shall not exceed *one hundred seventy-five dollars ($175.00)* for each such pupil. For a school enrolling more than sixty (60) pupils the maximum of *one hundred seventy-five dollars ($175.00)* shall be decreased at the rate of twenty-five cents ($0.25) for each such additional pupil until the number enrolled shall have reached a total of one hundred sixty (160) such pupils. For a school enrolling more than one hundred sixty (160) pupils the maximum of *one hundred fifty dollars ($150.00)* shall be decreased at the rate of fifteen cents ($0.15) for each such additional pupil until the number enrolled shall have reached two hundred sixty (260) such pupils. For a school enrolling more than two hundred sixty (260) pupils the maximum of *one hundred thirty-five dollars ($135.00)* shall be decreased at the rate

Budget meeting.

Restriction on appropriations.

Maximum allowance per pupil.

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of ten cents ($0.10) for each such additional pupil until the total number enrolled shall have reached three hundred sixty (360) such pupils. For a school enrolling more than three hundred sixty (360) pupils the maximum of *one hundred twenty-five dollars ($125.00)* shall be decreased at the rate of five cents ($0.05) for *each* such additional pupil until the total enrollment shall have reached five hundred sixty (560) such pupils. For a school enrolling more than five hundred sixty (560) pupils the maximum shall not exceed *one hundred fifteen dollars ($115.00)* for each such pupil *provided that the maximum per pupil for all pupils enrolled shall be figured on the basis of the amount allowed herein on account of the last enrolled eligible pupil; provided further that nothing herein shall be construed to limit the expenditure of any and all amounts received as tuition and from other states and counties for non-resident pupils in addition to all other expendible income budgeted for.* (b) In districts where an application to establish a high school or high schools has been approved by the state superintendent of public instruction, the maximum for the first year shall be the same as that provided for under subdivision (a) of this Section; provided *further,* that nothing herein contained shall be construed as preventing any school district from voting upon itself an additional levy for high school purposes, in accordance with the general school laws pertaining to the voting of additional levies by school districts. For the purpose of ascertaining and determining the number of pupils enrolled and in regular attendance for forty (40) days or more, for all the purposes of this act, there shall be excluded all pupils over the age of twenty-one (21) years, all pupils *who have been graduated from a four (4) year accredited high school, and all pupils enrolled in the school who are not resident of the county in which the high school is located.*"

Proviso.

Extra levy may be voted.

Determining number of pupils.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1939.

CHAPTER 167

An Act Providing for the Transfer to the Railroad Unemployment Insurance Account, Established and Main-

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tained Pursuant to the Provisions of the Railroad Unemployment Insurance Act (52 Stat. 1094), a Certain Portion of the Unemployment Compensation Trust Fund of the State of Montana Established and Created Pursuant to Section 904 of the Federal Social Security Act, as Amended; Providing for the Authority of the Unemployment Compensation Commission of Montana to Cooperate With and Enter Into Agreements With the Railroad Retirement Board With Respect to the Use of Montana State Employment Service Facilities and to Make Available Records of the Commission Relating to Employers and Employees Covered by the Railroad Unemployment Insurance Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Notwithstanding any requirements of Section 9 of the Montana unemployment compensation law (Chapter 137 of the twenty-fifth legislative assembly, 1937), the unemployment compensation commission of Montana, shall, prior to July 1, 1939, authorize and direct the secretary of the treasury of the United States to transfer from the unemployment compensation trust fund for the State of Montana, established and maintained pursuant to Section 904 of the federal social security act, as amended, to the railroad unemployment insurance account established and maintained pursuant to Section 10 of the railroad unemployment insurance act (52 Stat. 1094), an amount *hereinafter referred to as the preliminary amount; and shall, prior to December 31, 1939, authorize and direct the secretary of the treasury of the United States to transfer from the Montana unemployment compensation trust fund to said railroad unemployment insurance account an additional amount, hereinafter referred to as the liquidating amount. The preliminary amount shall consist of that proportion of the balance in the employment compensation trust fund as of June 30, 1939, as the total amount of contributions collected from "employers" (as the term employer is defined in Section 1 (a) of the railroad unemployment insurance act) and credited to the Montana unemployment compensation trust fund bears to all contributions theretofore collected under this act and credited to such fund. The liquidating amount shall consist of the total amount of contributions collected from "employers" (as the term employer is de-*

Transfer of certain amounts from the unemployment compensation trust fund for State of Montana to the railroad unemployment insurance account.

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fined in Section 1 (a) of the railroad unemployment insurance act) pursuant to the provisions of this act during the period from July 1, 1939, to December 31, 1939, inclusive.

Unemployment compensation commission authorized to enter into certain agreements with the railroad retirement board.

Section 2. The unemployment compensation commission of Montana is hereby authorized to cooperate with and enter into agreements with the railroad retirement board with respect to establishment, maintenance and use of Montana state employment service facilities, and to make available to the said railroad retirement board the records of the commission relating to employer's status and contributions received from employers covered by the railroad unemployment insurance act, together with employee wage records and such other data as the railroad retirement board may deem necessary or desirable for the administration of the railroad unemployment insurance act, (52 Stat. 1094); that any monies received by the unemployment compensation commission of Montana from the railroad retirement board or any other governmental agency with respect to the establishment, maintenance and use of Montana state employment service facilities, shall be paid into and credited the proper division of the unemployment compensation administration fund set up and established under Section 13 of the Montana unemployment compensation act.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1939.

CHAPTER 168

An Act to Authorize the State of Montana to Become Indebted in the Sum of Five Hundred Thousand Dollars in Excess of the Constitutional Limitation of Indebtedness and Over and Above any Bonded Indebtedness Heretofore Incurred or Created and for Which the State of Montana Is Now Obligated, for the Construction, Repair, and Equipment of Necessary Buildings, Other Permanent Improvements and the Acquisition of Necessary Grounds Therefor at the Montana State Hospital for the Insane Located at Warm Springs, Montana; Providing for the Issuance of Bonds in the

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Name of the State of Montana as Evidence of Such Indebtedness and for the Sale Thereof, Prescribing the Form of Such Bonds and Providing for the Levy of an Annual Tax Sufficient to Pay the Principal Thereof and the Interest Accruing Thereon, and Providing for a Referendum of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Authorized: Bond issue in excess of constitutional limitations for benefit of state insane asylum.

Section 1. That the legislative assembly of the State of Montana is hereby authorized and empowered to direct the state board of examiners to issue bonds in the name of the State of Montana in a sum not exceeding five hundred thousand dollars ($500,000.00) in excess of the constitutional limitation of indebtedness and over and above any bonded indebtedness heretofore incurred or created and for which the State of Montana is now obligated, the money derived from the sale of said bonds to be used for the purpose of constructing, repairing, and equipping necessary buildings, for other permanent improvements and for acquiring necessary grounds therefor, at the Montana state insane asylum at Warm Springs, Montana.

Series and date of issue.

Section 2. Such bonds shall be issued in series from time to time by the state board of examiners upon the direction of the legislative assembly of the State of Montana, and at such times and in such amounts as may appear to the legislative assembly of the State of Montana in the exercise of its judgment and discretion to be for the best interests of the State and necessary for the erection, repair and equipment of necessary buildings, other permanent improvements, and acquisition of necessary grounds, at the Montana state hospital for the insane.

Date, terms and denominations of bonds.

Section 3. Each series of bonds provided for in this act shall be issued in such denominations as may be determined by the state board of examiners at the time the same are authorized to be issued under the provisions of this act, and shall bear date as of the day of issuance thereof, and shall become due and payable serially over a period of not to exceed twenty (20) years from the date of issuance, and shall bear interest at the rate of not to exceed four per centum (4%) per annum, payable semi-annually on such dates as may be determined and

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fixed by the State of Montana; provided, however, that for each series of said bonds issued after the issuance of a first series thereof, the board of examiners shall so fix the interest paying dates that the interest thereon will become due and payable on the same date as the interest on the first series of bonds which become due and payable, and in order so to do, the state board of examiners may provide that the first interest shall be due and payable at a date less than six (6) months after the date of the issuance of such series.

Form of bonds.

Section 4. The board of examiners shall prescribe the form of such bonds and the bonds of each series shall bear upon their face the words "state insane hospital bonds of the State of Montana" with a letter or figure to designate the series thereon, and shall be signed by the members of the state board of examiners, and the Great Seal of the State of Montana shall be affixed to each bond and the bonds shall be registered in the office of the state treasurer. Said bonds shall have interest coupons attached thereto covering the interest due semi-annually, which coupons shall be executed with facsimile signatures of all the members of the state board of examiners and the signing of said bonds with facsimile signatures shall be recognized as sufficient execution of said coupons on behalf of the State of Montana.

Disposition of bonds.

Section 5. The bonds provided for in this act shall be disposed of by the state board of examiners in such manner as they shall deem for the best interests of the State and in carrying out the provisions of this act; provided, that no bond shall be disposed of for less than its par value.

Special fund for designated purpose.

Section 6. All moneys derived from the issuance and sale of the bonds authorized by this act shall be paid into the state treasury, and shall constitute a special fund for the construction, repair, and equipment of necessary buildings and other permanent improvements, and the acquisition of necessary grounds therefor at the state hospital for the insane at Warm Springs, Montana, and shall be expended only for the construction, repair, and equipment of necessary buildings, other permanent improvements, and the acquisition of necessary grounds therefor, at said institution, and shall be disbursed by the state treasurer on warrants properly drawn against such

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fund by the state auditor pursuant to the orders of the state board of examiners.

Section 7. There shall be levied annually upon all property of the State of Montana subject to taxation an ad valorem tax upon each dollar of the taxable valuation of such property sufficient to pay the interest accruing on said bonds as such interest shall fall due, and the payment of the bonds as they serially become due, said levy, however, not to exceed one-half (½) mill per annum. The tax when collected by the county treasurers of the several counties of the State shall be by them accounted to and paid into the state treasury of the State of Montana, and by the state treasurer placed in the "state insane hospital bond interest and redemption fund" which fund shall be used exclusively for the payment of principal and interest on said bonds as the same become due.

Tax levy for payment of bonds.

Section 8. There shall be a referendum on this act and the secretary of state is hereby required, and it is made his duty to submit this measure in accordance with Section 2 of Article 13 of the Constitution of the State of Montana and all other provisions of the Constitution and laws of the State of Montana applicable thereto to the people of the State for their approval or rejection at the general election to be held in November, 1940. The official ballot used at said election shall have printed thereon the title of this act and below the same shall be printed the words:

Act to be submitted to a referendum.

☐ For the bond issue for state insane hospital bonds.

☐ Against the bond issue for the state insane hospital bonds.

Each elector shall designate his preference by marking an "X" in the square below the proposition for which such elector desires to vote. The votes cast for and against the law above proposed, shall be counted, returned, and canvassed, and the results shall be determined and declared in the manner provided by the general election laws of the State.

Section 9. The cost of the bonds issued under this act, fees, commissions, and compensation of the architect employed in the construction and to prepare plans shall be paid out of the proceeds of the bonds.

Cost of bonds.

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Separability of act.

Section 10. If any parts of this act shall be declared by any court of competent jurisdiction to be unconstitutional such unconstitutionality shall not affect the validity of the remaining parts of this act.

Repealing clause.

Section 11. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 12. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1939.

CHAPTER 169

An Act to Amend Section 1200.4 of the Revised Codes of Montana, 1935, as Amended by Chapter 38 of the Session Laws of 1937, Creating a State Public School General Fund and Providing for the Disposal of School Moneys.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1200.4, R. C. 1935, amended.

Section 1. That Section 1200.4 of the Revised Codes of Montana, 1935, as amended by Chapter 38 of the Session Laws of 1937, be, and the same is hereby amended to read as follows:

State public school general fund established.

"Section 1200.4 There is hereby created and established a fund to be known and designated as the state public school general fund, which the treasurer of the State of Montana shall ever keep separate and apart from all other funds and moneys in his custody, and into which there shall be paid all moneys coming to the state for distribution in support of the public schools of the state, save only such school funds as by Section 5, Article XI of the Constitution of the State of Montana, or otherwise by constitutional provisions are to be kept and distributed in a manner other than is provided in this act. Providing one hundred fifty thousand dollars ($150,000.00) for the period ending March 15, *1940*, and a like amount for the period ending March 15, *1941*, shall remain in the common school equalization fund to be distributed as provided in the act creating said fund, until March 15th, *1941*. Provided further that the total

Reservation in favor of the common school equalization fund.

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amount received from the common school equalization fund and the state public school general fund does not exceed for any school year the amount needed to operate such school as determined under the plan set up by the state board of education as provided in the common school equalization fund law."

Section 2. This act shall be in full force and effect immediately from and after its passage and approval. Effective date.

Approved March 15, 1939.

CHAPTER 170

An Act Providing the Manner for Placing the List of Candidates for State Senate and House of Representatives on Any Primary or General Election Ballot.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. At any state or county election in which a member of the state senate or house of representatives is to be elected or nominated, and subject to the provisions of Sections 651 and 681 of the Revised Codes of Montana, 1935, the list of candidates for such offices shall be arranged on the ballot immediately following the other state offices and shall precede any county office on such ballot. Placement on ballot of candidates for state senate or house of representatives.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 15, 1939.

CHAPTER 171

An Act to Provide for the Support of the Government of Montana for the Years 1939 and 1940.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following tax levies for state purposes are hereby made upon all property in the State of Mon- Tax levies for state purposes, for 1939.

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tana subject to taxation for the year 1939, as ascertained by taking the percentage of true and full value provided by law for purposes of taxation, to-wit:

A. For the state general fund, including the levy for the issue of four million, five hundred thousand dollars ($4,500,000.00), state funding bonds authorized by Chapter 10 of the Session Laws of the twenty-third legislative assembly of 1933, two (2) mills.

B. For the university millage fund, three (3) mills.

Levies for 1940.

Section 2. The following tax levies for state purposes are hereby made upon all property in the State of Montana subject to taxation for the year 1940, as ascertained by taking the percentage of the true and full value provided by law for purposes of taxation, to-wit:

A. For the state general fund, including the levy for the issue of four million, five hundred thousand dollars ($4,500,00.00), state funding bonds authorized by Chapter 10 of the Session Laws of the twenty-third legislative assembly of 1933, two (2) mills.

B. For the university millage fund, three (3) mills.

Separability of act.

Section 3. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1939.

CHAPTER 172

An Act Relating to Electric Cooperative, Non-profit, Membership Corporations Organized to Engage in Rural Electrification.

Be it enacted by the Legislative Assembly of the State of Montana:

Short title.

Section 1. **Short Title.** This act may be cited as the "rural electric cooperative act".

Purpose.

Section 2. **Purpose.** Cooperative, non-profit, membership corporations may be organized under this act for the purpose of supplying electric energy and promoting and extending the use thereof in rural areas, in which

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electrical current and service is not otherwise available, from existing facilities and plants. Corporations organized under this act and corporations which become subject to this act in the manner hereinafter provided are hereinafter referred to as "cooperatives".

Section 3. **Powers.** A cooperative shall have power:

Powers.

(a) To sue and be sued, in its corporate name;

(b) To have perpetual existence;

(c) To adopt a corporate seal and alter the same at pleasure;

To generate and distribute electric energy.

(d) To generate, manufacture, purchase, acquire, accumulate and transmit electric energy, and to distribute, sell, supply and dispose of electric energy in rural areas to its members, to governmental agencies and political subdivisions, and to other persons not in excess of ten per centum (10%) of the number of its members;

To make loans under certain conditions.

(e) To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in, wiring their premises and installing therein electrical and plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection therewith, to purchase, acquire, lease, sell, distribute, install and repair such electrical and plumbing fixtures, appliances, apparatus and equipment, and to accept, or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security therefor;

(f) To make loans to persons to whom electric energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating electric refrigeration plants;

(g) To become a member in one or more other cooperatives or corporations or to own stock therein;

To acquire electric systems.

(h) To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain, and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber, electric transmission and distribution lines or systems, electric generating plants, electric

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refrigeration plants, lands, buildings, structures, dams, plants and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized;

(i) To purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, priveleges, licenses, rights of way and easements;

To borrow money under certain conditions.

(j) To borrow money and otherwise contract indebtedness, and to issue notes, bonds and other evidences of indebtedness therefor, and to secure the payment thereof by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then owned or after-acquired real or personal property, assets, franchises, revenues or income;

(k) To construct, maintain and operate electric transmission and distribution lines along, upon, under and across all public thoroughfares, including without limitation all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly-owned lands, subject, however, to the same requirements in respect of the use of such thoroughfares and lands as are imposed by the respective authorities having jurisdiction thereof upon corporations constructing or operating electric transmission and distribution lines or systems;

Exercise power of eminent domain.

(l) To exercise the power of eminent domain in the manner provided by the laws of this State for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems;

(m) To conduct its business and exercise any or all of its powers within or without this State;

(n) To adopt, amend and repeal by-laws; and

(o) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized.

Name.

Section 4. **Name.** The name of each cooperative shall include the words "electric" and "cooperative", and the

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abbreviation "Inc.", provided, however, such limitations shall not apply if, in an affidavit made by the president or vice-president of a cooperative and filed with the secretary of state, it shall appear that the cooperative desires to transact business in another state and is precluded therefrom by reason of its name. The name of a cooperative shall distinguish it from the name of any other corporation organized under the laws of, or authorized to transact business in, this State. The words "electric" and "cooperative" shall not both be used in the name of any corporation organized under the laws of, or authorized to transact business in, this State, except a cooperative or a corporation transacting business in this State pursuant to the provisions of this act.

Incorporators.

Section 5. **Incorporators.** Five or more natural persons, or two or more cooperatives, may organize a cooperative in the manner hereinafter provided.

Articles of incorporation.

Section 6. **Articles of Incorporation.** (a) The articles of incorporation of a cooperative shall recite in the caption that they are executed pursuant to this act, shall be signed and acknowledged by each of the incorporators, and shall state:

(1) The name of the cooperative;

(2) The address of its principal office;

(3) The names and addresses of the incorporators;

(4) The names and addresses of the persons who shall constitute its first board of trustees; and

(5) Any provisions not inconsistent with this act deemed necessary or advisable for the conduct of its business and affairs.

(b) Such articles of incorporation shall be submitted to the secretary of state for filing as provided in this act.

(c) It shall not be necessary to set forth in the articles of incorporation of a cooperative the purpose for which it is organized or any of the corporate powers vested in a cooperative under this act.

By-laws.

Section 7. **By-laws.** The original by-laws of a cooperative shall be adopted by its board of trustees. Thereafter by-laws shall be adopted, amended or repealed by its

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members. The by-laws shall set forth the rights and duties of members and trustees and may contain other provisions for the regulation and management of the affairs of the cooperative not inconsistent with this act or with the articles of incorporation.

Members.

Section 8. **Members.** (a) No person who is not an incorporator shall become a member of a cooperative unless such person shall agree to use electric energy furnished by the cooperative when such electric energy shall be available through its facilities. The by-laws may provide that any person, including an incorporator, shall cease to be a member of a cooperative if he shall fail or refuse to use electric energy made available by the cooperative or if electric energy shall not be made available to such person by the cooperative within a specified time after such person shall have become a member thereof. Membership in the cooperative shall not be transferable, except as provided in the by-laws. The by-laws may prescribe additional qualifications and limitations in respect of membership.

Annual meeting.

(b) An annual meeting of the members shall be held at such time as shall be provided in the by-laws.

Special meetings.

(c) Special meetings of the members may be called by the board of trustees, by any three trustees, by not less than ten per centum (10%) of the members, or by the president.

Place of meetings.

(d) Meetings of members shall be held at such place as may be provided in the by-laws. In the absence of any such provision, all meetings shall be held in the city or town in which the principal office of the cooperative is located.

Notice.

(e) Except as hereinafter otherwise provided, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than ten (10) nor more than twenty-five (25) days before the date of the meeting.

Quorum.

(f) Five per centum (5%) of all members present in person shall constitute a quorum for the transaction of business at all meetings of the members, but the by-laws may prescribe the presence of a greater percentage of

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the members for a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

(g) Each member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the by-laws so provide, may also be by proxy or by mail, or both. If the by-laws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting or both shall be exercised. In any event, no person shall vote as proxy for more than three (3) members at any meeting of the members. Voting.

Section 9. **Board of Trustees.** (a) The business and affairs of a cooperative shall be managed by a board of not less than five (5) trustees, each of whom shall be a member of the cooperative or of another cooperative which shall be a member thereof. The by-laws shall prescribe the number of trustees, their qualifications, other than those provided for in this act, the manner of holding meetings of the board of trustees and of the election of successors to trustees who shall resign, die or otherwise be incapable of acting. The by-laws may also provide for the removal of trustees from office and for the election of their successors. Without approval of the membership, trustees shall not receive any salaries for their services as trustees and, except in emergencies, shall not be employed by the cooperative in any capacity involving compensation. The by-laws may, however, provide that a fixed fee and expenses of attendance, if any, may be allowed for attendance at each meeting of the board of trustees. Board of trustees.

(b) The trustees of a cooperative named in any articles of incorporation, consolidation, merger or conversion, as the case may be, shall hold office until the next following annual meeting of the members or until their successors shall have been elected and qualified. At each annual meeting or, in case of failure to hold the annual meeting as specified in the by-laws, at a special meeting called for that purpose, the members shall elect trustees to hold office until the next following annual meeting of the members, except as hereinafter otherwise provided. Each trustee shall hold office for the term for Duration of office.

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which he is elected or until his successor shall have been elected and qualified.

(c) The by-laws may provide that, in lieu of electing the whole number of trustees annually, the trustees shall be divided into two classes at the first or any subsequent annual meeting, each class to be as nearly equal in number as possible, with the term of office of the trustees of the first class to expire at the next succeeding annual meeting and the term of the second class to expire at the second succeeding annual meeting. At each annual meeting after such classification the number of trustees equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting.

Quorum.

(d) A majority of the board of trustees shall constitute a quorum.

(e) If a husband and wife hold joint membership in a cooperative, either one, but not both, may be elected a trustee.

(f) The board of trustees may exercise all of the powers of a cooperative except such as are conferred upon the members by this act, or its articles of incorporation or by-laws.

Section 10. **Voting Districts.** Notwithstanding any other provision of this act, the by-laws may provide that the territory in which a cooperative supplies electric energy to its members shall be divided into two or more voting districts and that in respect of each such voting district (1) a designated number of trustees shall be elected by the members residing therein, or (2) a designated number of delegates shall be elected by the members residing therein, or (3) both such trustees and delegates shall be elected by such members. In any such case the by-laws shall prescribe the manner in which such voting districts and the members thereof, and the delegates and trustees, if any, elected therefrom shall function and the powers of the delegates, which may include the power to elect trustees. No member at any voting district meeting and no delegate at any meeting shall vote by proxy or by mail.

Voting districts.

Officers.

Section 11. **Officers.** The officers of a cooperative shall consist of a president, vice-president, secretary and

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treasurer, who shall be elected annually by and from the board of trustees. No person shall continue to hold any of the above offices after he shall have ceased to be a trustee. The offices of secretary and of treasurer may be held by the same person. The board of trustees may also elect or appoint such other officers, agents, or employees as it shall deem necessary or advisable and shall prescribe the powers and duties thereof. Any officer may be removed from office and his successor elected in the manner prescribed in the by-laws.

Amendment of articles of incorporation.

Section 12. **Amendment of Articles of Incorporation.** (a) A cooperative may amend its articles of incorporation by complying with the following requirements:

(1) The proposed amendment shall be first approved by the board of trustees and shall then be submitted to a vote of the members at any annual or special meeting thereof, the notice of which shall set forth the proposed amendment. The proposed amendment, with such changes as the members shall choose to make therein, shall be deemed to be approved on the affirmative vote of not less than two-thirds of those members voting thereon at such meeting; and

Requirements of amended articles of incorporation.

(2) Upon such approval by the members, articles of amendment shall be executed and acknowledged on behalf of the cooperative by its president or vice-president and its corporate seal shall be affixed thereto and attested by its secretary. The articles of amendment shall recite in the caption that they are executed pursuant to this act and shall state;

(a) The name of the cooperative;

(b) The address of its principal office;

(c) The date of the filing of its articles of incorporation in the office of the secretary of state; and

(d) The amendment to its articles of incorporation. The president or vice-president executing such articles of amendment shall also make and annex thereto an affidavit stating that the provisions of this Section were duly complied with. Such articles of amendment and affidavit shall be submitted to the secretary of state for filing as provided in this act.

(b) A cooperative may, without amending its articles of incorporation, upon authorization of its board of

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Change of principal place of business.

trustees, change the location of its principal office by filing a certificate of change of principal office executed and acknowledged by its president or vice-president under its seal attested by its secretary, in the office of the secretary of state and also in each county office in which its articles of incorporation or any prior certificate of change of principal office of such cooperative has been filed and paying the fees prescribed in this act in connection therewith. Such cooperative shall also, within thirty (30) days after the filing of such certificate of change of principal office in any county office, file therein certified copies of its articles of incorporation and all amendments thereto, if not already on file therein.

Consolidation.

Section 13. **Consolidation.** Any two or more cooperatives, each of which is hereinafter designated a "consolidating cooperative", may consolidate into a new cooperative, hereinafter designed the "new cooperative", by complying with the following requirements:

(a) The proposition for the consolidation of the consolidating cooperatives into the new cooperative and proposed articles of consolidation to give effect thereto shall be first approved by the board of trustees of each consolidating cooperative. The proposed articles of consolidation shall recite in the caption that they are executed pursuant to this act and shall state: (1) the name of each consolidating cooperative, the address of its principal office, and the date of the filing of its articles of incorporation in the office of the secretary of state; (2) the name of the new cooperative and the address of its principal office; (3) the names and addresses of the persons who shall constitute the first board of trustees of the new cooperative; (4) the terms and conditions of the consolidation and the mode of carrying the same into effect, including the manner and basis of converting memberships in each consolidating cooperative into memberships in the new cooperative and the issuance of certificates of memberships in respect of such converted memberships; and (5) any provisions not inconsistent with this act deemed necessary or advisable for the conduct of the business and affairs of the new cooperative;

Requirements.

Proposition to be voted upon by members.

(b) The proposition for the consolidation of the consolidating cooperatives into the new cooperative and the proposed articles of consolidation approved by the

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board of trustees of each consolidating cooperative shall then be submitted to a vote of the members thereof at any annual or special meeting thereof, the notice of which shall set forth full particulars concerning the proposed consolidation. The proposed consolidation and the proposed articles of consolidation shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members of each consolidating cooperative voting thereon at such meeting; and

(c) Upon such approval by the members of the respective consolidating cooperatives, articles of consolidation in the form approved shall be executed and acknowledged on behalf of each consolidating cooperative by its president or vice-president and its seal shall be affixed thereto and attested by its secretary. The president or vice-president of each consolidating cooperative executing such articles of consolidation, shall also make and annex thereto an affidavit stating that the provisions of this Section were duly complied with by such cooperative. Such articles of consolidation and affidavits shall be submitted to the secretary of state for filing as provided in this act. Articles of consolidation.

Section 14. **Merger.** Any one or more cooperatives, each of which is hereinafter designated a "merging cooperative", may merge into another cooperative, hereinafter designated the "surviving cooperative", by complying with the following requirements: Merger.

(a) The proposition for the merger of the merging cooperatives into the surviving cooperative and proposed articles of merger to give effect thereto shall be first approved by the board of trustees of each merging cooperative and by the board of trustees of the surviving cooperative. The proposed articles of merger shall recite in the caption that they are executed pursuant to this act and shall state: (1) the name of each merging cooperative, the address of its principal office, and the date of the filing of its articles of incorporation in the office of the secretary of state; (2) the name of the surviving cooperative and the address of its principal office; (3) a statement that the merging cooperatives elect to be merged into the surviving cooperative; (4) the terms and conditions of the merger and the mode of carrying the same into effect, including the Requirements.

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manner and basis of converting the memberships in the merging cooperative or cooperatives into memberships in the surviving cooperative and the issuance of certificates of membership in respect of such converted memberships; and (5) any provisions not inconsistent with this act deemed necessary or advisable for the conduct of the business and affairs of the surviving cooperative;

(b) The proposition for the merger of the merging cooperatives into the surviving cooperative and the proposed articles of merger approved by the board of trustees of the respective cooperatives which are parties to such proposed merger shall then be submitted to a vote of the members of each such cooperative at any annual or special meeting thereof, the notice of which shall set forth full particulars concerning the proposed merger. The proposed merger and the proposed articles of merger shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members of each cooperative voting thereon at such meeting; and

Merger to be voted upon by members.

(c) Upon such approval by the members of the respective cooperatives, parties to the proposed merger, articles of merger, in the form approved shall be executed and acknowledged on behalf of each such cooperative by its president or vice-president and its seal shall be affixed thereto and attested by its secretary. The president or vice-president of each cooperative executing such articles of merger shall also make and annex thereto an affidavit stating that the provisions of this Section were duly complied with by such cooperative. Such articles of merger and affidavits shall be submitted to the secretary of state for filing as provided in this act.

Articles of merger.

Section 15. **Effect of Consolidation or Merger.** The effect of consolidation or merger shall be as follows:

Effect of consolidation or merger.

(a) The several cooperatives, parties to the consolidation or merger, shall be a single cooperative, which, in the case of a consolidation, shall be the new cooperative provided for in the articles of consolidation, and, in the case of a merger, shall be that cooperative designated in the articles of merger as the surviving cooperative, and the separate existence of all cooperatives, parties to the consolidation or merger, except the new or surviving cooperative, shall cease;

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(b) Such new or surviving cooperative shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a cooperative organized under the provisions of this act, and shall possess all the rights, privileges, immunities and franchises, as well of a public as of a private nature, and all property, real and personal, applications for membership, all debts due on whatever account, and all other choses in action, of each of the consolidating or merging cooperatives, and furthermore all and every interest of, or belonging or due, to each of the cooperatives so consolidated or merged, shall be taken and deemed to be transferred to and vested in such new or surviving cooperative without further act or deed; and the title to any real estate, or any interest therein, under the laws of this State vested in any such cooperative shall not revert or be in any way impaired by reason of such consolidation or merger;

Liabilities.

(c) Such new or surviving cooperative shall thenceforth be responsible and liable for all of the liabilities and obligations of each of the cooperatives so consolidated or merged, and any claim existing, or action or proceeding pending, by or against any of such cooperatives may be prosecuted as if such consolidation or merger had not taken place, but such new or surviving cooperative may be substituted in its place;

(d) Neither the rights of creditors nor any liens upon the property of any of such cooperatives shall be impaired by such consolidation or merger; and

(e) In the case of a consolidation, the articles of consolidation shall be deemed to be the articles of incorporation of the new cooperative; and in the case of a merger, the articles of incorporation of the surviving cooperative shall be deemed to be amended to the extent, if any, that changes therein are provided for in the articles of merger.

Conversion of existing corporations.

Section 16. **Conversion of Existing Corporations.** Any corporation organized under the laws of this State for the purpose, among others, of supplying electric energy in rural areas may be converted into a cooperative and become subject to this act with the same effect as if originally organized under this act by complying with the following requirements:

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Approval by directors or trustees.

(a) The proposition for the conversion of such corporation into a cooperative and proposed articles of conversion to give effect thereto shall be first approved by the board of trustees or the board of directors, as the case may be, of such corporation. The proposed articles of conversion shall recite in the caption that they are executed pursuant to this act and shall state: (1) the name of the corporation prior to its conversion into a cooperative; (2) the address of the principal office of such corporation; (3) the date of the filing of its articles of incorporation in the office of the secretary of state; (4) the statute or statutes under which such corporation was organized; (5) the name assumed by such corporation; (6) a statement that such corporation elects to become a cooperative, non-profit, membership corporation subject to this act; (7) the manner and basis of converting either memberships in or shares of stock of such corporation into memberships therein after completion of the conversion; and (8) any provisions not inconsistent with this act deemed necessary or advisable for the conduct of its business and affairs;

To be voted on by members or stockholders.

(b) The proposition for the conversion of such corporation into a cooperative and the proposed articles of conversion approved by the board of trustees or board of directors, as the case may be, of such corporation shall then be submitted to a vote of the members or stockholders, as the case may be, of such corporation at any duly held annual or special meeting thereof, the notice of which shall set forth full particulars concerning the proposed conversion. The proposition for the conversion of such corporation into a cooperative and the proposed articles of conversion, with such amendments thereto as the members or stockholders of such corporation shall choose to make therein, shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members of such corporation voting thereon at such meeting, or, if such corporation is a stock corporation, upon the affirmative vote of the holders of not less than two-thirds of the capital stock of such corporation represented at such meeting;

(c) Upon such approval by the members or stockholders of such corporation, articles of conversion in the form approved by such members or stockholders of such corporation shall be executed and acknowledged on behalf

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of such corporation by its president or vice-president and its corporate seal shall be affixed thereto and attested by its secretary or assistant secretary. The president or vice-president executing such articles of conversion on behalf of such corporation shall also make and annex thereto an affidavit stating that the provisions of this Section with respect to the approval of its trustees or directors and its members or stockholders, of the proposition for the conversion of such corporation into a cooperative and such articles of conversion were duly complied with. Such articles of conversion and affidavit shall be submitted to the secretary of state for filing as provided in this act; and

Articles of conversion.

(d) The term "articles of incorporation" as used in this act shall be deemed to include the articles of conversion of a converted corporation.

Section 17. **Initiative by Members.** Notwithstanding any other provision of this act, there shall be submitted to the members of a cooperative any proposition embodied in a petition signed by not less than ten per centum (10%) of its members, together with any document submitted with such petition to give the effect to the proposition, either at a special meeting of the members held within forty-five (45) days after the presentation of such petition or, if the date of the next annual meeting of members falls within ninety (90) days after such presentation or if the petition so requests, at such annual meeting. The approval of the board of trustees shall not be required in respect of any proposition or document submitted to the members pursuant to this Section and approved by them, but such proposition or document shall be subject to all other applicable provisions of this act. The affidavit or affidavits required to be filed with any such document pursuant to applicable provisions of this act shall, in such case, be modified to show compliance with the provisions of this Section.

Initiative by members.

Section 18. **Dissolution.** (a) A cooperative which has not commenced business may dissolve voluntarily by delivering to the secretary of state articles of dissolution, executed and acknowledged on behalf of the cooperative by a majority of the incorporators, which shall state:

Dissolution.

(1) The name of the cooperative;

(2) The address of its principal office;

A cooperative which has not commenced business.

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(3) The date of its incorporation;

(4) That the cooperative has not commenced business;

(5) That the amount, if any, actually paid in on account of membership fees, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto and that all easements shall have been released to the grantors;

(6) That no debt of the cooperative remains unpaid; and

(7) That a majority of the incorporators elect that the cooperative be dissolved. Such articles of dissolution shall be submitted to the secretary of state for filing as provided in this act;

A cooperative which has commenced business.

(b) A cooperative which has commenced business may dissolve voluntarily and wind up its affairs in the following manner:

(1) The board of trustees shall first recommend that the cooperative be dissolved voluntarily and thereafter the proposition that the cooperative be dissolved shall be submitted to the members of the cooperative at any annual or special meeting the notice of which shall set forth such proposition. The proposed voluntary dissolution shall be deemed to be approved upon the affirmative vote of not less than two-thirds of those members voting thereon at such meeting;

Certificate of election to dissolve.

(2) Upon such approval, a certificate of election to dissolve, hereinafter designated the "certificate", shall be executed and acknowledged on behalf of the cooperative by its president or vice-president, and its corporate seal shall be affixed thereto and attested by its secretary or assistant secretary. The certificate shall state: (a) the name of the cooperative; (b) the address of its principal office; (c) the names and addresses of its trustees; and (d) the total number of members who voted for and against the voluntary dissolution of the cooperative. The president or vice-president executing the certificate shall also make and annex thereto an affidavit stating that the provisions of this Subsection were duly complied with. Such certificate and affidavit shall be submitted to the secretary of state for filing as provided in this act;

(3) Upon the filing of the certificate and affidavit by the secretary of state, the cooperative shall cease to

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carry on its business except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until articles of dissolution have been filed by the secretary of state;

(4) After the filing of the certificate and affidavit by the secretary of state the board of trustees shall immediately cause notice of the winding up proceedings to be mailed to each known creditor and claimant and to be published once a week for two successive weeks in a newspaper of general circulation in the county in which the principal office of the cooperative is located;

(5) The board of trustees shall have full power to wind up and settle the affairs of the cooperative and shall proceed to collect the debts owing to the cooperative, convey and dispose of its property and assets, pay, satisfy and discharge its debts, obligations and liabilities and do all other things required to liquidate its business and affairs, and after paying or adequately providing for the payment of all its debts, obligations and liabilities, shall distribute the remainder of its property and assets among its members in proportion to the aggregate patronage of each such member during the seven years next preceding the date of such filing of the certificate, or, if the cooperative shall not have been in existence for such period, during the period of its existence; and

Winding up of affairs.

(6) When all debts, liabilities and obligations of the cooperative have been paid and discharged or adequate provision shall have been made therefor, and all of the remaining property and assets of the cooperative shall have been distributed to the members pursuant to the provisions of this Section, the board of trustees shall authorize the execution of articles of dissolution which shall thereupon be executed and acknowledged on behalf of the cooperative by its president or vice-president, and its corporate seal shall be affixed thereto and attested by its secretary. Such articles of dissolution shall recite in the caption that they are executed pursuant to this act and shall state: (a) the name of the cooperative; (b) the address of the principal office of the cooperative; (c) that the cooperative has heretofore delivered to the secretary of state a certificate of election to dissolve and the date on which the certificate was filed by the secretary of state in the records of his office; (d) that all debts, obligations and liabilities of the cooperative have

Articles of dissolution.

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been paid and discharged or that adequate provision has been made therefor; (e) that all the remaining property and assets of the cooperative have been distributed among the members in accordance with the provisions of this Section; and (f) that there are no actions or suits pending against the cooperative. The president or vice-president executing the articles of dissolution shall also make and annex thereto an affidavit stating that the provisions of this Subsection were duly complied with. Such articles of dissolution and affidavit accompanied by proof of the publication required in this Subsection, shall be submitted to the secretary of state for filing as provided in this act.

Filing of articles.

Section 19. **Filing of Articles.** Articles of incorporation, amendment, consolidation, merger, conversion, dissolution, as the case may be, when executed and acknowledged and accompanied by such affidavits as may be required by applicable provisions of this act, shall be presented to the secretary of state for filing in the records of his office. If the secretary of state shall find that the articles presented conform to the requirements of this act, he shall, upon the payment of the fees as in this act provided, file the articles so presented in the records of his office and upon such filing the incorporation, amendment, consolidation, merger, conversion, or dissolution provided for therein shall be in effect. The secretary of state immediately upon the filing in his office of any articles pursuant to this act shall transmit a certified copy thereof to the county clerk of the county in which the principal office of each cooperative or corporation affected by such incorporation, amendment, consolidation, merger, conversion or dissolution shall be located. The clerk of any county, upon receipt of any such certified copy, shall file and index the same in the records of his office, but the failure of the secretary of state or of a clerk of a county to comply with the provisions of this Section shall not invalidate such articles. The provisions of this Section shall also apply to certificates of election to dissolve and affidavits of compliance executed pursuant to Subsection (b)(2) of Section 18 of this act.

Refunds to members.

Section 20. **Refunds to Members.** Revenues of a cooperative for any fiscal year in excess of the amount thereof necessary:

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(a) To defray expenses of the cooperative and of the operation and maintenanace of its facilities during such fiscal year;

(b) To pay interest and principal obligations of the cooperative coming due in such fiscal year;

(c) To finance, or to provide a reserve for the financing of, the construction or acquisition by the cooperative of additional facilities to the extent determined by the board of trustees;

(d) To provide a reasonable reserve for working capital;

(e) To provide a reserve for the payment of indebtedness of the cooperative maturing more than one (1) year after the date of the incurrence of such indebtedness in an amount not less than the total of the interest and principal payments in respect thereof required to be made during the next following fiscal year; and

(f) To provide a fund which shall be not less than two per cent (2%) nor more than five per cent (5%) of the balance remaining for education in cooperation and for the dissemination of information concerning the effective use of electric energy and other services made available by the cooperative, shall, unless otherwise determined by a vote of the members, be distributed by the cooperative to its members as patronage refunds pro rated in accordance with the patronage of the cooperative by the respective members paid for during such fiscal year. Nothing herein contained shall be construed to prohibit the payment by a cooperative of all or any part of its indebtedness prior to the date when the same shall become due.

Fund for education in cooperation.

Section 21. **Disposition of Property**. A cooperative may not sell, mortgage, lease or otherwise dispose of or encumber all or any substantial portion of its property unless such sale, mortgage, lease or other disposition or encumbrance is authorized at a duly held meeting of the members thereof by the affirmative vote of not less than two-thirds (2/3) of all of the members of the cooperative, and unless the notice of such proposed sale, mortgage, lease or other disposition or encumbrance shall have been contained in the notice of the meeting; provided, however, that notwithstanding anything herein

Disposition of property.

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contained, or any other provisions of law, the board of trustees of a cooperative, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust upon, or the pledging or encumbrancing of, any or all of the property, assets, rights, privileges, licenses, franchises and permits of the cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the board of trustees shall determine, to secure any indebtedness of the cooperative to the United States of America or any instrumentality or agency thereof.

Non-liability of members for debts of cooperative.

Section 22. **Non-liability of Members for Debts of Cooperative.** The private property of the members of a cooperative shall be exempt from execution for the debts of the cooperative and no member shall be liable or responsible for any debts of the cooperative.

Recordation of mortgages.

Section 23. **Recordation of Mortgages.** Any mortgage, deed of trust or other instrument executed by a cooperative or foreign corporation transacting business in this State pursuant to this act, which, by its terms, creates a lien upon real and personal property then owned or after acquired and which is recorded as a mortgage of real property in each county wherein such property is located, or is to be located, shall have the same force and effect as if the instrument were also recorded or filed in the proper office in each such county as a mortgage of personal property. Recordation of any such mortgage deed of trust or other instrument shall cause the lien thereof to attach to all after acquired property of the mortgagor of the nature therein described as being mortgaged or pledged thereby immediately upon the acquisition thereof by the mortgagor and such lien shall be superior to all claims of creditors of the mortgagor and purchasers of such property and to all other liens except liens of prior record affecting such property.

Waiver of notice.

Section 24. **Waiver of Notice.** Whenever any notice is required to be given under the provisions of this act or under the provisions of the articles of incorporation or by-laws of a cooperative, waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time fixed for the giving of such notice, shall be deemed equivalent to such notice.

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If a person or persons entitled to notice of a meeting shall attend such meeting, such attendance shall constitute a waiver of notice of the meeting, except in case the attendance is for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

Trustees, officers or members, if legally authorized, may take acknowledgments.

Section 25. **Trustees, Officers or Members—Notaries.** No person who is authorized to take acknowledgments under the laws of this State shall be disqualified from taking acknowledgments of instruments executed in favor of a cooperative or to which it is a party, by reason of being an officer, director or member of such cooperative.

Foreign corporations.

Section 26. **Foreign Corporations.** Any corporation organized under the laws of a state adjacent to this State on a non-profit or a cooperative basis for the purpose of supplying electric energy in rural areas and owning and operating electric transmission or distribution lines in such state shall be permitted to extend its lines into and transact business in this State without complying with any statute of this State pertaining to the qualification of foreign corporations for the transaction of business in this State. Any such foreign corporation, as a prerequisite to the extension of its lines into and the transaction of business in this State, shall, by an instrument executed and acknowledged in its behalf by its president or vice-president under its corporate seal attested by its secretary, designate the secretary of state its agent to accept service of process in its behalf. In the event any process shall be served upon the secretary of state, he shall forthwith forward the same by registered mail to such corporation at the address thereof specified in such instrument. Any such corporation may sue and be sued in the courts of this State to the same extent that a cooperative may sue or be sued in such courts. Any such foreign corporation may secure its notes, bonds or other evidences of indebtedness by mortgage, pledge, deed of trust or other encumbrance upon any or all of its then owned or after acquired real or personal property, assets or franchises, located or to be located in this State, and also upon the revenues and income to be derived therefrom.

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Section 27. **Fees.** The secretary of state shall charge and collect for:

Fees of secretary of state.

(a) Filing articles of incorporation, five dollars ($5.00);

(b) Filing articles of amendment, five dollars ($5.00);

(c) Filing articles of consolidation or merger, five dollars ($5.00);

(d) Filing articles of conversion, five dollars ($5.00);

(e) Filing certificate of election to dissolve, five dollars ($5.00);

(f) Filing articles of dissolution, five dollars ($5.00); and

(g) Filing certificate of change of principal office, five dollars ($5.00).

License fee.

Section 28. **Exemption From Excise Taxes—License Fee.** Cooperatives and foreign corporations, transacting business in this State pursuant to the provisions of this act, shall pay annually, on or before the first day of July, to the secretary of state, a fee of ten dollars ($10.00) for each one hundred (100) persons or fractions thereof to whom electricity is supplied within the State, but shall be exempt from all other excise and income taxes of whatsoever kind or nature.

Exemption from excise and income taxes.

Section 29. **Exemption From Jurisdiction of the Public Service Commission.** Cooperatives and foreign corporations transacting business in this State pursuant to this act shall be exempt in all respects from the jurisdiction and control of the public service commission of this State.

Definitions.

Section 30. **Definitions.** In this act, unless the context otherwise requires:

"Rural area."

(a) "Rural area" means any area not included within the boundaries of any incorporated or unincorporated city, town, village or borough having a population in excess of twenty-five hundred (2500) persons;

"Person."

(b) "Person" includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision or agency thereof or any body politic; and

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(c) "Member" means each incorporator of a cooperative and each person admitted to and retaining membership therein, and shall include a husband and wife admitted to joint membership. "Member."

Section 31. **Construction of Act.** This act shall be construed liberally. The enumeration of any object, purpose, power, manner, method or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things. Construction of act.

Section 32. **Separability of Provisions.** If any provision of this act, or the application of such provision to any person or circumstance is held invalid, the remainder of the act and the application of such provisions to other persons or circumstances shall not be affected thereby. Separability of provisions.

Section 33. **Effective Date.** This act shall be effective immediately upon its passage and approval. Effective date.

Approved March 17, 1939.

CHAPTER 173

An Act to Amend Section 6269 of Chapter 33 of the Revised Codes of Montana of 1935, Relating to the Investment of Funds and Loaning of Money by Domestic Life Insurance Companies.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6269 of Chapter 33, Revised Codes of Montana of 1935, be, and hereby is amended to read as follows: Sec. 6269, R. C. 1935, amended.

"Section 6269. **The Investment of Funds and Loaning of Money.** *The capital stock and reserve funds required by law in accordance with Section 6261 of Chapter 33 of the Revised Codes of Montana, 1935, of any domestic life insurance company incorporated under the laws of Montana, may be invested as follows:* Investment of funds and loaning of money.

(a) *In or upon securities which are direct obligations of the United States Government; securities which are guaranteed as to principal and interest by the United States Government; securities issued by instrumentalities*

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Kind of securities for investment.

of the United States Government, and securities issued by or guaranteed by the government of the Dominion of Canada.

(b) *In securities which are direct obligations of, or secured by the pledge of specific revenues by, any state of the United States, or the District of Columbia, or any province of the Dominion of Canada.*

(c) *In securities which are direct obligations of, or secured by the pledge of specific revenues by, any county, city, town, village, duly organized school district, or other political subdivision or municipal corporation of any State of the United States, or the District of Columbia, or of any province of the Dominion of Canada.*

(d) *In evidences of indebtedness, having preference over common and preferred stock issues, issued or guaranteed by any railroad, street railway, public utility, or industrial corporation organized and operated under the laws of the United States or the Dominion of Canada, or any State, or province thereof.*

(e) *In first mortgages on improved unencumbered real estate or the entire issue of bonds secured thereby, located within any of the states of the United States, or the District of Columbia, provided that the appraised value of such real estate is worth at least fifty per cent (50%) more than the sum so invested, said worth to be substantiated by an experienced real estate appraiser of the board of directors making or authorizing such investment on behalf of the company.*

Definition of "improved real estate."

By improved real estate is meant all farm land which is used for tillage or pasture, and all real property on which permanent buildings suitable for residence or commercial use are situated.

(f) *In loans secured by promissory notes amply secured by the pledge of any securities which such insurance companies by this act are authorized to invest in; and may also make loans upon the securities of its own policies, provided that no loan on any policy shall exceed the reserve value thereof.*

(g) *No investment or loan, except policy loans, shall be made by any such life insurance company, unless the same shall first have been authorized by the board of*

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directors, or by a committee thereof charged with the duty of supervising such investment or loan. No such company shall subscribe to, or participate in, any underwriting of the purchase or sale of securities or property, or enter into any transaction for such purchase or sale on account of said company, jointly with any other person, firm, or corporation; nor shall any such company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of its board of directors."

Construction of act.

Section 2. This act shall in no way be construed to change, repeal, or amend any part of the present insurance code of the State of Montana other than Section 6269 of Chapter 33, of the Revised Codes of Montana of 1935.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 174

An Act to Amend Sections 3685 and 3685.3, Revised Codes of Montana, 1935, relating to the Classes of Licenses for Hunting and Taking Game and Fish and Fur-bearing Animals Within the State of Montana; the Fees and Powers Under Such Licenses; and Repealing All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sections 3685 and 3685.3, R. C. 1935, amended.

Section 1. That Sections 3685 and 3685.3, Revised Codes of Montana, 1935, be, and the same hereby are amended to read as follows:

"Section 3685. **Fees and Powers Under Licenses—Tagging of Carcasses and Reports of Killing of Elk or Deer—Transfer of Money From Fish and Game Fund to Bounty Fund.** Said applicant, if a resident of the State of Montana and a citizen of the United States, shall pay to the officer or person countersigning and issuing the license the sum of two dollars ($2.00) as a license fee, and shall obtain a license of class A, which shall entitle the holder to pursue, hunt, shoot, kill, capture, take and

Class A license, and fee.

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possess game birds and to fish with hook and line or rod in hand as authorized by this act.

"Said applicant, if a resident of the State of Montana and a citizen of the United States, shall pay to the officer or person countersigning and issuing the license the sum of one dollar ($1.00), and shall obtain a license of class AA, which shall entitle the holder to pursue, hunt, shoot, kill, capture, take and possess any of the game animals of this State as authorized by this act; provided, however, that said applicant, in order to obtain said class AA license, must be the owner and possessor of a class A license, as hereinabove defined.

Class AA license, and fee.

"Said applicant, if a resident 'sportsman' of the State of Montana and a citizen of the United States, may pay to the officer or person countersigning and issuing the license the sum of five dollars ($5.00) as a license fee, and shall obtain a license of Class AAA, herein designated as a resident 'sportsmen's' license, which shall entitle the holder to pursue, hunt, kill, capture, take and possess game, game birds and game animals, and to fish with hook and line or rod in hand as authorized by this act.

Class AAA license, and fee.

Who are resident citizens.

"All citizens of the United States who have lived in this State at least six months immediately preceding their application for a license, or officers, soldiers, sailors and marines of the United States army, navy, or marine corps, shall be deemed resident citizens for the purpose of this Section, as well as officers of the forest service and of the biological survey of the United States department of agriculture.

"Said applicant, if a non-resident of the State or a resident for less than six months immediately preceding his application for a license and a citizen of the United States, shall pay to the officer countersigning and issuing the license the sum of *five dollars ($5.00)* as a license fee, and shall obtain a class B license, which shall entitle the holder to fish with hook and line, or rod in hand, as authorized by this act; and such non-resident, on like application and on the payment of the sum of ten dollars ($10.00) as a license fee, shall obtain a class B-1 license, which shall entitle him to pursue, hunt, shoot, kill and take game birds, as authorized by this act; and such non-resident on like application and on the payment of the sum of thirty dollars ($30.00), as a license fee, shall

Class B-1 license, and fee.

Class B-2 license, and fee.

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obtain a license of class B-2, which shall entitle the holder to pursue, hunt, shoot, kill, capture, take and possess game animals, as authorized by this act.

"Said applicant, if an alien, resident or non-resident, shall pay to the officer countersigning and issuing the license, the sum of ten dollars ($10.00) as a license fee, and shall obtain a class C license, which shall entitle him to fish with hook and line or rod in hand, as authorized by this act; and such alien, on like application and on the payment of the sum of thirty dollars ($30.00) as a license fee, shall obtain a license of class C-1, which shall entitle him to pursue, hunt, shoot, kill and take game birds, as authorized by this act; and such alien, on like application and on the payment of the sum of fifty dollars ($50.00) as a license fee, shall obtain a license of class C-2, which shall entitle him to pursue, hunt, shoot, kill, capture, take and possess game animals, as authorized by this act, provided, however, that any person in possession of first citizenship papers shall not be considered a resident of the State of Montana for the purpose of this act.

Class C license, and fee.

Class C-1 license, and fee.

Class C-2 license, and fee.

"To every license, whether issued to a resident, non-resident or alien, which authorizes the licensee to kill elk or deer in this State, there shall be attached to said license certain tags, coupons or other markers, the form of which shall be prescribed by the state fish and game commission, and when any person shall take or kill any deer or elk under such license such person shall immediately thereafter detach from his license, and attach in plain sight to the carcass of said animal or animals the proper tag, coupon or other marker, which said tag, coupon or other marker shall be kept attached thereto so long as any considerable portion of the carcass remains unconsumed. When the proper tag, coupon or other marker is so attached to the said game so killed, the same may be possessed, used, stored and transported; provided the necessary permit to transport the same accompanies the shipment. To said license to hunt or take elk or deer shall also be attached a card, which said card shall on or before the first day of January of the year following the date of the issuance of said license, be returned by the holder of said license to the fish and game commission and a report made to said commission of the game taken under said license and the place where

Licensee to attach tags to carcasses of deer and elk.

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the same was taken, it being the intent of this act to require every licensee to make said report whether any game was taken under said license or not. It shall be unlawful and a misdemeanor punishable, accordingly, for anyone killing any deer or elk under said license, to fail or neglect to attach the tag, coupon or other marker so provided by said license to any deer or elk killed by them immediately after the same had been killed or to fail to keep said tag, coupon or other marker attached to said deer or elk or portions thereof while the same is possessed by him.

Class D license, and fee.

"The applicant for a class D license, or trapper's license, must be the owner and in possession of a class A-2 license, and upon the payment of the sum of ten dollars ($10.00) to the officer to whom the application for a class D license is made, shall receive and obtain a class D license, or trapper's license, which shall authorize the holder thereof to trap fur-bearing animals within the State at such times and in such manner as may be lawful so to do under the laws of this State and the regulations of the fish and game commission, and at such places as may be designated in said license.

Moneys to be credited to fish and game fund.

"All sums collected for licenses sold, or received for permits issued, from the sale of seized game, or from fines, or the sale of firearms or other chattels confiscated, from damages collected for violations of the fish and game laws of this State, from appropriations, or received by the state fish and game commission from any and all other sources are hereby appropriated to and placed under control of the state fish and game commission. All moneys so received shall be remitted by the state fish and game warden to the state treasurer to be by him placed to the credit of the fish and game fund."

Class BB license, and fee.

"Section 3685.3. **License Fee—Rights Under License—Term.** An applicant for such temporary, non-resident license, if a citizen of the United States and a non-resident of the State of Montana, shall pay to the officer or person countersigning and issuing such license the sum of *two dollars and fifty cents ($2.50)* as a license fee and shall obtain a license of class BB, which shall entitle the holder to fish with hook and line or rod in hand, as authorized and limited by law, for a period of *ten (10)* days from and after the date of issuance of such license."

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Section 2. The fish and game commission shall pay bounty claims for wild animals which have been filed, registered and approved in the office of the livestock commission; the state fish and game commission is empowered to and shall pay out of the state fish and game funds *other than those funds derived from license fees paid by hunters and fishermen* for bounties on predatory wild animals, as such bounty claims are presented, not exceeding seven thousand five hundred dollars ($7,500.00) per calendar year.

Payment of bounty claims out of fish and game fund.

The livestock commission shall, after the filing, registration and approval of the bounty claim or certificate in its office, deliver the same to the office of the state fish and game commission for rejection or approval. If such claim or certificate is rejected it shall be returned by the fish and game commission to the livestock commission and if approved it shall be delivered to the state board of examiners for allowance or disallowance. *Provided, however, that nothing herein shall be construed as taking from the fish and game commission the exclusive power to administer said funds at their discretion.*

Livestock commission to deliver bounty claims to fish and game commission.

If the state board of examiners approve and allow any such claim or certificate, they must endorse thereon over their signatures, "Approved for the sum of.....dollars", and transmit the same to the auditor, and the auditor must draw his warrant on the state fish and game fund for the amount so approved and allowed, in favor of the claimant, or his assigns, in the order in which the same is approved.

Approval of claims by board of examiners.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 17, 1939.

CHAPTER 175

An Act to Amend Sections 3170, 3173, 3174, 3175, 3176, 3177, 3202.10, 3202.11, 3202.12 and 3202.13, Revised Codes of Montana, 1935, Providing for the Comprehensive Regulation of the Practice of Pharmacy, and

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the Regulation of the Sale of Drugs, Medicines, Chemicals and Poisons; Providing for a State Board of Pharmacy and Defining Its Powers and Duties, and Investing It With Power to Promulgate Regulations Within This Act; Setting Forth the Requirements for Registration and Licensing of Pharmacists, Pharmacies, Drug Stores and Other Places; Defining Terms Used in the Act, Setting Forth Penalties for Violations of This Act and Repealing Sections 3171, 3172, 3178, 3179, 3180, 3181, 3182, 3183, 3184, 3202.7, 3202.8, and 3202.9, Revised Codes of Montana, 1935, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3170, R. C. 1935, amended.

Section 1. That Section 3170, Revised Codes of Montana, 1935, shall be and the same is hereby amended to read as follows:

"Section 3170. *Sale of Drugs, Medicines, Etc., Unlawful Except as Provided Herein.*

Sale of drugs, medicines, etc., unlawful except as provided herein.

(a) *It shall be unlawful for any person to compound, dispense, vend or sell at retail, drugs, medicines, chemicals or poisons in any place other than a pharmacy, except as hereinafter provided.*

(b) *It shall be unlawful for any proprietor, owner or manager of a pharmacy, or any other person to permit the compounding or dispensing of prescriptions or the vending or selling at retail of drugs, medicines, chemicals, or poisons in any pharmacy except by a registered and licensed pharmacist or by an assistant pharmacist in the temporary absence of such pharmacist.*

(c) *It shall be unlawful for any person falsely to assume or pretend to the title of pharmacist or assistant pharmacist unless such person has a license as such issued and in force pursuant to the terms of this act.*

(d) *It shall be unlawful for any person other than a licensed and registered pharmacist, an assistant licensed and registered pharmacist to compound, dispense, vend or sell at retail, drugs, medicines, chemicals or poisons, except as in this act provided."*

Sec. 3170, R. C. 1935, amended.

Section 2. That Section 3170, Revised Codes of Montana, 1935, shall be and the same hereby is amended by adding a

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new subsection thereto to be known as Section 3170.1 reading as follows:

"Section 3170.1. *Terms Defined as Used in This Act.* Definitions.

(a) *The term "pharmacy" shall mean a drug store or other established place regularly registered by the state board of pharmacy, in which prescriptions, drugs, medicines, chemicals, and poisons are compounded, dispensed, vended or sold at retail.* "Pharmacy."

(b) *The term "pharmacist" shall mean a natural person licensed by the state board of pharmacy to prepare, compound, dispense and sell drugs, medicines, chemicals and poisons, and such person shall be entitled to affix to his name the term REG-PH.* "Pharmacist."

(c) *The term "assistant pharmacist" shall mean a natural person licensed as such by the state board of pharmacy to prepare, compound, dispense and sell drugs, medicines, chemicals and poisons in a pharmacy having a pharmacist in charge.* "Assistant pharmacist."

(d) *The term "drug" means (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2) or (3); but does not include devices or their components, parts or accessories.* "Drug."

(e) *The term "medicine" shall mean any remedial agent which has the property of curing, preventing, treating or mitigating diseases, or which is used for such purpose.* "Medicine."

(f) *"Poisons" shall mean any substance, which when introduced into the system, either directly or by absorption, produces violent, morbid or fatal changes or which destroys living tissue with which it comes in contact.* "Poisons."

(g) *"Chemical" means all medicinal or industrial substances, whether simple or compound or obtained through* "Chemical."

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the process of the science and art of chemistry, whether of organic or inorganic origin.

"Board." (h) *The term "board" or "state board of pharmacy" shall mean the Montana state board of pharmacy.*

"Secretary." (i) *The term "secretary" shall mean the secretary of the Montana state board of pharmacy.*

"Person." (j) *The word "person" shall be construed to include every individual, co-partnership, corporation or association, unless the context otherwise requires.*

(k) *Masculine words shall include the feminine and neuter and the singular includes the plural.*

"Wholesale." (l) *The term "wholesale" shall mean and include any sale for the purpose of resale.*

"Commercial purposes." (m) *The phrase "commercial purposes" shall mean the ordinary purposes of trade, agriculture, industry and commerce, exclusive of the practices of medicine and pharmacy."*

Sec. 3173, R. C. 1935, amended. Section 3. Section 3173, Revised Codes of Montana, 1935, shall be and the same hereby is amended to read as follows:

Montana state board of pharmacy, qualifications of members. "Section 3173. *Montana State Board of Pharmacy. Qualifications of Members. Term and Appointment. The Montana state board of pharmacy shall consist of three (3) pharmacists who shall be graduates of the college of pharmacy of the State University of Montana or of a college or school of pharmacy recognized and approved by, or a member of, the American Association of Colleges of Pharmacy; each of whom shall have had at least five (5) consecutive years of practical experience as a pharmacist immediately preceding his appointment; provided, however, that one (1) member of the board may be a registered pharmacist of fifteen (15) years practical experience and actually engaged in the practice of pharmacy.*

Term of office. *Term of Office. The members of the board shall be appointed by the governor from the list hereinafter subscribed, one in each year; each member shall serve for a term of three (3) years and until his successor shall have been appointed and qualified. Vacancies shall be filled by appointment by the governor for the unexpired term. Any member of the board who, during his incumbency, ceases*

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to be actively engaged in the practice of pharmacy in this State, shall be automatically disqualified from membership upon the board, and such disqualification shall result in a vacancy which may be filled as provided. Any member may be removed from office by the governor upon proof of malfeasance or misfeasance in office after reasonable notice of charges against him and fair hearing thereon. The members of the Montana state board of pharmacy heretofore appointed and now holding office shall continue in office as members of the board hereby established until their respective terms expire. The Montana State Pharmaceutical Association shall annually submit to the governor the names of five (5) persons, qualified as prescribed herein, for each appointment to be made, from which list the governor shall appoint a member or members of the board as heretofore prescribed.''

Montana state pharmaceutical association to submit names of eligible persons.

Section 4. Section 3174, Revised Codes of Montana, 1935, shall be, and the same is hereby amended to read as follows:

Sec. 3174, R. C. 1935, amended.

"Section 3174. **Montana State Board of Pharmacy. Powers of Board.**

(a) **Organization of Board, Officers.** *The board shall annually elect from its members a president, a vice-president, a treasurer, and a pharmacist, who may or may not be a member, as secretary.*

Officers of board.

(b) *Powers and Duties of Board of Pharmacy. The Montana state board of pharmacy shall have power, and it shall be its duty:*

Powers and duties of board.

(1) *To regulate the practice of pharmacy in the State of Montana subject to the provisions of this act.*

(2) *To determine the minimum equipment necessary in and for a pharmacy and drug store.*

(3) *To regulate, under therapeutic classification, the sale of drugs, medicines, chemicals and poisons and their labeling.*

(4) *To regulate the quality of all drugs and medicines dispensed in this State, using the United States pharmacopoeia and the national formulary, or any revisions thereof, as the standards.*

(5) *To enter and inspect by its duly authorized representative at any reasonable times any and all places where*

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drugs, medicines, chemicals or poisons are sold, vended, given away, compounded, dispensed or manufactured. It shall be a misdemeanor for any person to refuse to permit or otherwise prevent such representative from entering any such places and making such inspection.

(6) *To examine, license and register as pharmacists all applicants whom the board shall deem qualified as such as prescribed herein. To license pharmacies and certain stores, and to issue certificates of "certified pharmacy" as in this act provided.*

Power to revoke licenses.

(7) *To revoke temporarily or permanently, upon fair hearing, after reasonable notice of formal charges have been served, licenses issued by it to any pharmacist or assistant pharmacist whenever the holder of such license has obtained the same by false representations or fraud of any character or shall be an habitual drunkard or addicted to the use of narcotic drugs, or shall have been convicted of a felony, or shall have been convicted of violating the pharmacy law, or shall have been found guilty by the board of incompetency in the preparation of prescriptions, or guilty of gross immorality affecting the discharge of his duties as a pharmacist or assistant subject to the right of any person whose license may be revoked to review by the district court of the proper county on any question of law and fact.*

(8) *To report its proceedings annually to the governor and to the state pharmaceutical association with such information and recommendations as it deem proper, giving the names of pharmacists and assistant pharmacists registered and licensed during the year, and the items of its receipts and disbursements.*

(9) *To employ necessary assistants, and make rules for the conduct of its business.*

(10) *To perform such other duties and exercise such other powers as the provisions of the act may require.*

(11) *For the purposes aforesaid, it shall also be the duty of the board to make and publish uniform rules and regulations not inconsistent herewith, for carrying out and enforcing the provisions of the act."*

Sec. 3175, R. C. 1935, amended.

Section 5. Section 3175, Revised Codes of Montana, 1935, shall be, and the same hereby is amended to read as follows:

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"Section 3175. *Salaries and Expenses of Officers of Board. Each member of the board shall receive five dollars ($5.00) a day for his actual services as such, and his necessary expenses in attending meetings. The secretary shall receive a salary to be fixed by the board, and all expenses necessarily incurred by him in the performance of his duties. The secretary shall give bond in such amount as the board may from time to time require, which bond shall be conditioned for the faithful performance of his duties and shall be approved by the board.*"

Salaries and expenses of members and officers of board.

Section 6. Section 3176, Revised Codes of Montana, 1935, shall be, and the same hereby is amended to read as follows:

Sec. 3176, R. C. 1935, amended.

"Section 3176. *Examination of Applicants for Registratio Fees—Certificates.*

(a) *The board shall meet at least once a year to examine applicants for registratiton as pharmacists and assistant pharmacists and to transact its other business, giving reasonable notice of all examinations by mail, to all known applicants therefor. The secretary shall record the names of all persons examined by the board together with the grounds upon which the right of each to examination was claimed and also the names of all persons registered by examination or otherwise. The fee for any examination shall be fifteen dollars ($15.00) which fee may, in the discretion of the board, be returned to applicants not taking the examination.*

Examination of applicants for registration.

Fee.

(b) *Upon again making payment of such fee any applicant who fails may be entitled to take the next succeeding examination free of charge.*

(c) *Fees for registration by reciprocity shall be twenty-five dollars ($25.00).*

Fee for registration by reciprocity.

Qualifications for Examination. To be entitled to examination by the board as a pharmacist, the applicant shall be a citizen of the United States, of good moral character, at least twenty-one years of age, and shall be a graduate of the school of pharmacy of the State University of Montana or of a college or school of pharmacy recognized and approved by, or a member, of the American Association of Colleges of Pharmacy, but such applicant shall not receive a license until he has at least one year

Qualifications for examination.

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of practical experience in a pharmacy which has been approved by the board of pharmacy. During this year, provided applicant has passed such examination, he shall be licensed as an assistant pharmacist only.

Reciprocity.

Reciprocity. The board may, in its discretion, grant registration without examination, to any pharmacist licensed by the board of pharmacy or a similar board of another state which accords similar recognition to licensees of this State, provided the requirements for registration in such other state are, in the opinion of the board, equivalent to the requirements herein provided. Every person licensed and registered under this act shall receive from the state board of pharmacy an appropriate certificate attesting the fact as it may be which certificate shall be conspicuously displayed at all times in his place of business. If the holder be entitled to manage or conduct a pharmacy in the State for himself or another, the fact shall be set forth in the certificate.

Registered pharmacists or assistants not required to be examined anew.

Pharmacists or Assistants not Required to Be Examined or to Register Anew Under This Act. Persons, who, at the time of the enactment of this law, hold certificates of registration as pharmacists, or assistant pharmacists, granted by the state board of pharmacy of this State, shall not be required to submit to examinations or to register anew under this law, but all such persons shall apply for and secure annual renewals of their present registration as provided in this act, and in all other respects be amenable to and governed by the provisions of this act and the rules and regulations of the board from time to time promulgated under this act."

Sec. 3177, R. C. 1935, amended.

Section 7. Section 3177 Revised Codes of Montana, 1935, shall be, and the same is hereby amended to read as follows:

Annual renewal of registration fees.

"Section 3177. *Annual Renewal of Registration Fees. Every person licensed and registered by the board shall annually pay to the board a renewal of registration fee of five dollars ($5.00). It shall be unlawful for any such person who refuses or fails to pay such renewal fee to practice pharmacy in this State. Every certificate and renewal shall expire at the time prescribed, not later than one year from its date. Any person who has been registered and licensed by the board and has defaulted in the payment of said renewal fee may be reinstated within two*

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(2) years of such default without examination upon payment of the arrears.

Section 8. *Licenses for Stores Selling Drugs. "Certified Pharmacy" Revocation.*

(a) *The state board of pharmacy shall upon application upon such forms as it may prescribe, and upon the payment of an annual fee of three dollars ($3.00), license pharmacies and stores other than a pharmacy wherein may be sold ordinary household or medicinal drugs prepared in sealed packages or bottles by a manufacturer, qualified under the laws of the State wherein such manufacturer resides. The name and address of such manufacturer shall appear conspicuously on each package sold by such licensee. It shall be unlawful for any such store to sell such household medicinal drugs, without first having secured such license and thereafter keeping the same in force by proper renewal, provided, also, that nothing herein shall be construed to prevent any vendor from selling any patent or proprietary medicine in the original package when plainly labeled, nor such non-medical articles as are usually sold by such vendors.*

Licenses for stores selling drugs.

(b) *The state board of pharmacy shall require and provide for the annual registration and licensing of every pharmacy now or hereafter doing business within this State within the meaning of this act. Upon presentation of evidence satisfactory to the board, it may license any pharmacy as a "CERTIFIED PHARMACY", provided, however, that such license shall be granted only to such pharmacies as are operated by registered pharmacists or assistant registered pharmacists qualified as herein prescribed. Such license must be exposed in a conspicuous place in the pharmacy for which it is issued, and shall expire on the thirtieth day of June following the date of issue. It shall be unlawful for any person to conduct such pharmacy unless such license has been duly issued and is in full force and effect.*

Licensing certified pharmacies.

(c) *The board may suspend, revoke or refuse to renew any store or pharmacy license obtained by false representation, or fraud of any character, or when the pharmacy for which the license shall have been issued is kept open for the transaction of business without a pharmacist in charge thereof, or when the person to whom license shall have been granted has been convicted for violation of any of the*

Suspension or revocation of store or pharmacy licenses.

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provisions of the act or for a felony, or, if a natural person, whose pharmacist or assistant pharmacist license has been revoked or when the store or pharmacy is conducted in violation of the provisions of this act. Before any license can be revoked the holder thereof shall be entitled to a hearing by the board after reasonable notice, and judicial review of the action of the board.

Section 9. *Judicial Review of Acts of Board.*

Judicial review of acts of board.

(a) *Review by the district court of any order revoking either permanently or temporarily a license of any pharmacist or assistant pharmacist, or any store or pharmacy, or any order, decision or finding of the board shall be made by petition in writing filed with the clerk of the district court of the county wherein the pharmacist or assistant pharmacist, store or pharmacy, or other affected person or business was operating at the time of the revocation of any such license, or at the time of such order, decision or finding. The petition shall concisely state the facts and order complained against.*

(b) *Upon the filing of said petition an order shall be made by the district judge setting a time for hearing on said petition not less than twenty (20) days thereafter and directing service of the petition upon the secretary of the board not less than three (3) days thereafter. The board must file and serve answer on the merits not less than five (5) days before the hearing.*

(c) *The court shall have power to sustain the board's action or annul the same, or order the board to act further or to restore any revoked license. Appeals from the district court's action to the supreme court may be taken at any time within sixty (60) days after entry of the final order or judgment of the court."*

Sec. 3202.10, R. C. 1935, amended.

Section 10. *Section 3202.10, Revised Codes of Montana, 1935, shall be, and the same hereby is amended to read as follows:*

"Section 3202.10. *Attorney General to Be Attorney for State Board of Pharmacy: Prosecutions: Secretary to Assist in Enforcement: Duties of County Attorneys.*

Administration and enforcement of act.

The attorney general of the State of Montana shall be the attorney for the Montana state board of pharmacy but said board may in its discretion employ other counsel. The secretary of the Montana state board of pharmacy shall,

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under such rules and regulations as the board may prescribe, assist the board and the attorney general or other counsel in the administration and enforcement of this act. It shall be the duty of the county attorney of any county wherein any offense hereunder is committed to prosecute the offender. The board, its secretary or the county attorney is authorized to examine the books of any manufacturer, druggist, storekeeper, wholesale dealer, pharmacist, assistant pharmacist or pharmacy within the State for the purpose of acquiring information to aid in prosecutions hereunder."

Use of words "drug store," "pharmacy," etc.

Section 11. *Use of Words "Drug Store", "Pharmacy", Etc. It shall be unlawful for any person to carry on, conduct or transact a retail business under a name which contains as a part thereof, the words, "drugs", "drug store", "pharmacy", "medicine", "apothecary", or "chemist shop", or any abbreviations, translations, extension or variation thereof; or in any manner by advertisement circular or poster, sign or otherwise, describe or refer to the place of business conducted by such person by such term, abbreviations, translation, extension or variation unless the place so conducted is a pharmacy within the meaning of this act, and duly licensed as such and in charge of a registered pharmacist.*

Wrongful labeling

Section 12. *Wrongful Labeling. It shall be unlawful for any person who prepares prescriptions, drugs, medicines, chemicals or poisons wilfully, negligently, or ignorantly to omit to label the package or receptacle, label it falsely, substitute an article different from the one ordered or deviate in any manner from the requirements of an order or prescription.*

Section 13. *Quality of Drugs Sold: Adulteration: Who Is Responsible:*

Adulteration.

(a) *It shall be unlawful for any person or his agent to adulterate any drug, medicinal substance or preparation authorized by the United States pharmacopoeia or the national formulary or any revision thereof, or any drug, medicinal substance or preparation used or intended to be used in medical practice.*

(b) *It shall be unlawful to mix with any such article any foreign or inert substance for the purpose of weakening its medicinal effect or of cheapening it.*

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(c) *Nothing in this act shall be construed to change any of the provisions of the food, drug and cosmetic act of Montana.*

Section 14. *Exceptions.*

Exceptions.

(a) *Nothing in this act shall subject a person duly licensed in this State to practice medicine, dentistry or veterinary medicine to inspection by the board nor prevent such person from compounding or using drugs, medicines, chemicals or poisons in his practice nor prevent one duly licensed to practice medicine from furnishing to a patient such drugs, medicines, chemicals or poisons as he deems proper in the treatment of such patient.*

(b) *Nothing herein shall prevent the sale of drugs, medicines, chemicals or poisons at wholesale.*

(c) *Nothing herein shall prevent the sale of drugs, chemicals or poisons, either at wholesale or retail, for use for commercial purposes, or in the arts, nor be construed to change any of the provisions of Chapter 238 of Volume II of the Political Code of the Revised Codes of Montana, 1935, relating to the sale of insecticides and fungicides, and nothing in this act shall prevent the sale of common household preparations and other drugs, provided stores selling same are licensed under the terms of this act.*

(d) *Nothing herein shall apply to or interfere with manufacture, wholesaling, vending, or retailing of flavoring extracts, toilet articles, cosmetics, perfumes, spices, and other commonly used household articles of a chemical nature, for use for non-medicinal purposes.*

Sec. 3202.11, R. C. 1935, amended.

Section 15. Section 3202.11, Revised Codes of Montana, 1935, shall be, and the same hereby is amended to read as follows:

Violation of act a misdemeanor.

"Section 3202.11. *Violation of Act a Misdemeanor. Any person, firm, co-partnership or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction for each violation shall be punished accordingly, and any thereof so convicted shall automatically lose any license issued by the board.*"

Sec. 3202.12, R. C. 1935, amended.

Section 16. Section 3202.12, Revised Codes of Montana, 1935, shall be and the same hereby is amended to read as follows:

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"Section 3202.12. *Disposition of Fees and Fines.*

Disposition of fees and fines.

(a) *The board shall, in each year, turn over out of the annual fees collected by the board to the Montana State Pharmaceutical Association for the advancement of the science and art of pharmacy, and for the enforcement of this or any other law relating to drug stores, or other stores licensed herein, or relating to pharmacists, two dollars ($2.00) for each pharmacist and assistant pharmacist who shall have paid his renewal fee during such year.*

(b) All fees collected by *or under the authority of* the state board of pharmacy of the State of Montana for *registration and* licenses issued under this act shall be transmitted to the state board of pharmacy as provided by law.

(c) All fines paid under the provisions of this act or in connection with the enforcement thereof shall be paid to the credit of the common school fund of the State of Montana; provided that no salaries or expenses of the board of pharmacy shall be paid out of the state treasury.

(d) *On or before June 30th in each fiscal year the board shall remit to the state treasurer for the credit of and to be paid into the general fund, any moneys in its* possession in excess of the sum of fifteen hundred dollars ($1500.00)."

Sec. 3202.13, R. C. 1935, amended.

Section 17. Section 3202.13, Revised Codes of Montana, 1935, shall be, and the same hereby is amended to read as follows:

Construction of act.

"Section 3202.13. *Construction of Act. If any section, subsection, clause or phrase of this act shall be held invalid, such decision shall not affect the validity of the remaining portions of this act. It is hereby declared that this act would have been passed irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases are declared unconstitutional or invalid."*

Repealing clause.

Section 18. *Sections 3171, 3172, 3178, 3179, 3180, 3181, 3182, 3183, 3184, 3202.7, 3202.8 and 3202.9, Revised Codes of Montana, 1935, shall be and the same are hereby repealed.* All acts and parts of acts in conflict herewith are hereby repealed.

Effective date

Section 19. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

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CHAPTER 176

An Act to Amend Section 4464, of the Revised Codes of Montana, 1935, Relating to Compensation and Mileage of County Commissioners.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4464, R. C. 1935, amended.

Section 1. That Section 4464, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 4464. **Compensation of Members of Board.** Each member of the board of county commissioners is entitled to eight dollars per day for each day's attendance on the sessions of the board, and *seven* cents per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence, and no other compensation must be allowed."

Compensation of members of board.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 177

An Act Defining Hide Buyers; Providing for the Licensing Thereof; Providing for the Inspection of Hide or Hides of Cattle or of Any Horse, Mare, Colt, Mule, Jack or Jenny, Purchased by a Hide Buyer; Providing for a Bill of Sale and Identifying Seals, and the Forms Thereof; Requiring Inspection in Either the County of Seller's Residence or in the County Where the Animal Was Killed; Prohibiting Falsifying the Bill of Sale; Prohibiting Carriers From Transporting Uninspected and Untagged Hides; Providing a Penalty for Violation of This Act; Amending Sections 3350.1, 3350.2, 3350.7, 3350.8, 3350.10 and 3350.11 of Chapter 291, Revised Codes of Montana, 1935; Repealing Sections 3350.3 and 3350.9 of Chapter 291, Revised Codes of Montana, 1935, and All Statutes in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3350.7, R. C. 1935, amended.

That Section 3350.7 be amended to read as follows:

Hide buyer defined.

"Section 1. **Hide Buyer Defined.** For the purpose of this act, every person, firm, corporation or association engaged in the business of buying or selling the hide or hides of any cattle or of any horse, mare, colt, mule, jack, or jenny, shall be designated a hide dealer or buyer."

Sec. 3350.8, R. C. 1935, amended.

That Section 3350.8 be amended to read as follows:

Hide dealers or buyers to pay license fee.

"Section 2. **Hide Dealer or Buyers License Fee—Disposal of Proceeds.** Every hide dealer or buyer, *before* engaging in, or conducting *any business as such,* in any county, shall pay to the county treasurer of such county a license fee of one ($1.00) *dollar,* which license shall continue in force and effect for that calendar year. The county treasurers of the state are hereby authorized and required, upon payment of any such license fee, to issue a proper certificate of such payment. The moneys collected from such licenses shall be placed in the general fund of the county wherein collected.

Sec. 3350.1, R. C. 1935, amended.

Section 3. That Section 3350.1 be and the same is hereby amended to read as follows:

Hide buyers to procure a bill of sale

"Section 3350.1. **Hide Buyers to Procure a Bill of Sale —Contents of Bill of Sale—Inspection of Hides Compulsory.** Any person, firm, *association* or corporation who shall purchase or receive any hide or hides *of cattle or of any horse, mare, colt, mule, jack, or jenny,* shall obtain from the owner thereof or from his legally authorized agent, at the time of purchasing or receiving the same, a bill of sale in writing, which bill of sale shall recite in full the date of receiving the hide or hides, the name of the person, firm, *association* or corporation selling such *hide or hides,* a description of each hide which shall include the marks and brands on each hide and which shall be in the following form:

Contents of bill of sale.

BILL OF SALE ....., Montana.

This is to certify that.....have this.....day of .....19....., sold to..... hides or pelts described below, for and in consideration of the sum of.....dollars $.....

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Contents of bill of sale.

COLOR	BRAND	POSITION	TAG NUMBER

As prescribed by the laws of the State of Montana, I have affixed tag or tags, as shown above to the individual described hides in the presence of the seller.

The tag or tags numbered as shown above were affixed to the above described hides in my presence and I guarantee to the buyer title to said hides.

.....
Buyer

.....
Seller

.....
P. O. Address and County

.....
P. O. Address and County

and shall keep a permanent record of all such purchases. *Such bill of sale forms shall be furnished by the Montana livestock commission to the said buyer, at actual cost of printing, mailing and handling, and may be obtained by the said buyer from any sheriff of the State."*

On purchasing any hide or hides of a seller thereof, the buyer at the time of the purchase shall make a record thereof in triplicate on the bill of sale as aforesaid, filling out in detail the data required, which bill of sale shall then and there be signed by the buyer and seller. One copy of such bill of sale shall be retained by the seller, one copy retained by the hide buyer, and the original copy shall be filed in the office of the clerk and recorder of the county of sellers residence, without cost.

Seal to be affixed to hides.

At the time of the sale the buyer shall securely affix in each hide a numbered lead seal, the form of which shall be specified by the livestock commission. Each seal shall bear the number assigned to the county by the livestock commission. Such seals shall be furnished by the county and shall be procured from the sheriff of the county of the sellers residence, and the sheriff shall keep an accurate record in a bound book furnished by the county of all seals procured from him. The number of the tag in the bill of sale shall correspond with the number on the lead seal so attached.

Inspection of hides.

Thereupon and prior to removing the hide from the county of the transaction, which shall be the seller's county of residence, the buyer shall forthwith submit all hides purchased for inspection to the sheriff of the county or his deputy, or

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to any person designated by the board of county commissioners, or the livestock commission, who shall inspect such hide or hides and issue a certificate of inspection in such form as may be required by the Montana livestock commission and such inspector shall issue to the hide buyer a certificate of inspection and shall file without cost a duplicate in the office of the clerk and recorder of the county of the seller's residence and shall retain a duplicate for his own records, except that no inspection or tag shall be required in the case of hides which have already been inspected and marked, or tagged, as provided for in Chapter 284, Political Code, Revised Codes of Montana, 1935.

Proviso.

Provided, however, that no delivery of any hide or hides shall be made as between the seller and hide buyer in any county other than the county of seller's residence, unless and until the hide or hides have been inspected by an inspecting officer as herein mentioned, in the county of seller's residence.

Proviso.

Provided, further, that if the animal or animals from which such hide or hides have been taken have been killed or butchered in a county other than that wherein seller resides then such inspection and delivery may be had in either of said counties, but such certificate must be filed in the county of seller's residence as hereinbefore provided.

Sec. 3350.2, R. C. 1935, amended.

Section 4. That Section 3350.2 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Falsifying bill of sale of hides, a misdemeanor.

"Section 3350.2. **Falsifying Bill of Sale of Hides Deemed a Misdemeanor.** Any person, firm, *association,* or corporation either selling or disposing of or purchasing hides in any manner, who shall wilfully or intentionally falsify the bill of sale covering such hides, shall be deemed guilty of a misdemeanor and shall be punished *as provided by Section* 3350.12."

Sec. 3350.10, R. C. 1935, amended.

Section 5. That Section 3350.10 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Inspection tags to be on purchased hides.

"Section 3350.10. **Inspection Tags to Be on Purchased Hides.** It shall be unlawful for any person, firm, association or corporation to purchase the hide or hides of any horse, mare, colt, mule, jack or jenny, *or cattle which does*

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not bear the inspection tag placed on such hide by an inspector as herein provided or by the buyer at time of purchase.''

Sec. 3350.11, R. C. 1935, amended.

Section 6. That Section 3350.11 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Unlawful for carriers to transport uninspected and untagged hides.

"Section 3350.11. **Unlawful for Carriers to Transport Uninspected and Untagged Hides.** It shall be unlawful and a misdemeanor punishable *as provided in Section 3350.12,* for any railroad company, express company or other common carrier to accept for shipment or transport any hide or hides, *as referred to in this* act, unless such hide or hides has affixed thereto the *lead* tag or *seal* provided in this act *or the mark or tag as provided by Section 3298.18, Revised Codes of Montana, 1935,* and each shipment must be accompanied by an itemized list prepared by the shipper, to accompany the bill of lading showing the number and kinds of hides and giving the brand or brands on each hide and the serial number and the county as given on the *lead* tag. *Provided, however, that in case of shipment of hides out of the State of Montana in carload or truckload lots the tags or seals may be removed at the time of shipment and no itemized list need accompany the bill of lading.''*

Fees for inspection.

Section 7. **Fees for Inspection** *Hide inspectors may collect a fee, not to exceed ten cents (10c) for each hide inspected, which fee shall be retained by the said inspector.*

Penalty.

Section 8. Any person or persons, *firm, association,* company or corporation *who shall fail to comply with the provision of this act shall be deemed guilty of a misdemeanor and on conviction* thereof shall be punished *as provided by Section 3350.12, Revised Codes of Montana, 1935.*

Repealing clause.

Section 9. That Sections 3350.3 and 3350.9 of Chapter 291, Revised Codes of Montana, 1935, and all acts and parts of acts in conflict herewith be, and are hereby repealed.

Effective date.

Section 10. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

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CHAPTER 178

An Act to Amend Sections 1224.3, 1224.4, 1224.10, 1224.11, 1224.16 and 1224.17 of the Revised Codes of Montana of 1935 and Section 1224.6, of the Revised Codes of Montana of 1935 as Amended by Chapter 57, Acts of Twenty-fifth Legislative Assembly of the State of Montana All Relating to Bonds Issued by School Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1224.3, R. C. 1935, amended.

Section 1. That Section 1224.3, Revised Codes of Montana of 1935 be, and the same hereby is amended to read as follows:

"Section 1224.3. **What Forms of Bonds May Be Issued.** All bonds hereafter issued by any school district in this State shall be amortization bonds, if bonds in this form can be sold and disposed of at a reasonable rate of interest. If amortization bonds cannot be sold and disposed of at a reasonable rate of interest advantageous to the people for whose benefit the same are issued, then in such case serial bonds may be issued in place of amortization bonds.

What forms of bonds may be issued.

The term 'amortization bonds', as used in this act, is hereby defined as meaning that form of bonds on which a part of the principal is required to be paid each time interest becomes due and payable, which part payment on the principal increases at each succeeding installment in the same amount that the interest payment decreases, so that the combined amount due on principal and interest on each succeeding due date remains the same until the bonds are fully paid; provided, however, that the final payment may vary in amount from the other payments to the extent resulting from disregarding fractional cents in the other payments.

"Amortization bonds" defined.

The term 'serial bonds', as used in this act, is hereby defined as being a bond issue payable in annual installments, one installment, consisting of one or more bonds, becoming due and payable each year, the amount to be paid and redeemed each year being determined by dividing the total amount of the bonds to be issued by the total number of years the issue is to run; provided, however, that the installment becoming due and payable the *first* year may vary in amount from the others to the extent resulting from fixing the amount of each

"Serial bonds" defined.

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bond of the other installments at the nearest practical multiples of *one hundred dollars ($100.00).*"

Sec. 1224.4, R. C. 1935, amended.

Section 2. That Section 1224.4, Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Limitation of term of bonds.

"Section 1224.4. **Limitation of Term of Bonds—Interest—Redemption.** No school district bonds shall be issued for a *term* longer than twenty (20) years, provided, however, that bonds issued to refund or redeem outstanding bonds shall not be issued for a *longer term than* ten (10) years, *except when the unexpired term of the bonds to be refunded is in excess of ten (10) years, in which case the refunding bonds may be issued for such unexpired term. All bonds shall be redeemable when one-half of the term for which they were issued has expired and* on any interest due date thereafter prior to their maturity, *and* such redemption right must be stated on the face of each bond. The interest shall not exceed six per centum (6%) and shall be payable semi-annually."

Redemption

Interest.

Sec. 1224.6, R. C. 1935, amended.

Section 3. That Section 1224.6, Revised Codes of Montana, 1935, as the same was amended by Chapter 57, Session Laws 1937, be, and the same is hereby amended to read as follows:

Certain bonds may be issued without holding an election.

"Section 1224.6. **Certain Bonds May Be Issued Without Holding an Election.** Bonds issued for the purpose of providing the necesasry funds to pay indebtedness to other district or districts, and bonds issued for the purpose of providing necessary funds to pay and redeem outstanding bonds may be issued without submitting the question of doing so at an election. In order to issue bonds for such purposes it shall only be necessary for the board of school trustees, at a regular or duly called special meeting of the board, to pass and adopt a resolution setting forth the facts in regard to the indebtedness to be paid or the bonds to be refunded, showing the reasons for issuing new bonds and fixing and determining the term and details of such new bonds, and then to give notice of the sale of such new bonds in the same manner that notice is required to be given of the sale of bonds authorized at a school election; provided that bonds issued to refund bonds issued prior to March 1, *1929,* shall not be issued for a longer term than ten (10) years, and that bonds issued to refund bonds issued on or after March 1, 1929, shall not be issued for a

Term.

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longer term than the unexpired term of the bonds to be refunded; *except when the unexpired term of the bonds to be refunded is in excess of ten (10) years, in which case the refunding bonds may be issued for such unexpired term and provided further that bonds issued on or after March 1, 1929, shall not be refunded by the issuance of such new bonds unless the rate of interest provided in such new bonds shall be at least one-half (½) of one per cent (1%) lower than the rate of interest in the bonds to be refunded; and provided further that all refunding bonds so* issued shall be sold in open competitive bidding, written bids and sealed bids for the purchase of such bonds to be considered the same as open bids."

Sec. 1224.10, R. C. 1935, amended.

Section 4. That Section 1224.10, Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Meeting of board of trustees to consider petition and calling of election.

"Section 1224.10. **Meeting of Board of Trustees to Consider Petition and Calling of Election—Notice of Election—Form.** Upon such petition being received by the clerk of the school district, a meeting of the board of trustees shall be called to consider the same. The board of trustees shall be the judges of the sufficiency of the petition and the findings of such board shall be conclusive against the school district in favor of the innocent holder of bonds issued pursuant to the election called and held by reason of the presentation of such petition. If it is found that the petition is in proper form and bears the requisite number of signatures, the board shall pass and adopt a resolution which shall recite the essential facts in regard to the petition and its presentation, fix the exact amount of bonds proposed to be issued, which may be more or less than the amount estimated in the petition, determine the number of years through which the bonds are to be paid, fix the date of election, which shall not be less than twenty (20) days, nor more than thirty (30) days after the date of the passage and adoption of such resolution, appoint three electors of the district who are qualified to vote at such election to act as judges of election, *at each voting place* and direct the clerk to give notice of such election. The notice of election shall designate *one or more* school houses in said school district *as voting places* and be in substantially the following form:

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'NOTICE OF SCHOOL DISTRICT BOND ELECTION.

Notice of election; form.

'Notice is hereby given by the undersigned clerk of School District No.....of.....County, State of Montana, that pursuant to a certain resolution duly adopted at a meeting of the board of trustees of said school district held on the.....day of....., A. D., 19....., an election of the registered qualified electors of School District No.....of.....County, State of Montana, who are taxpayers therein and whose names appear on the last completed assessment roll for state, county and school district taxes prior to the holding of such election, will be held on the.....day of....., A. D., 19....., at .....for the purpose of voting upon the question of whether or not the board of school trustees shall be authorized to issue and sell bonds of said school district in the amount of.....dollars, ($.....), bearing interest at a rate not exceeding six per centum (6%) per annum, payable semi-annually, for the purpose of.....(here state purpose)..... The bonds to be issued will be either amortization or serial bonds, and amortization bonds will be the first choice of the board of trustees. The bond to be issued, whether amortization or serial bonds, will be payable in installments over a period of.....(state number) years.

The polls will be open from.....o'clock ....m. and until .....o'clock ....m. of the said day.

Dated and posted this.....day of....., A. D., 19.....

.....

Clerk of School District No.....

of.....County, State of Montana.'

If the bonds proposed to be issued are for more than one purpose, then each purpose shall be separately stated in the notice together with the proposed amount of bonds therefor.

Posting of notice.

The school district clerk shall, not less than fifteen (15) days before the day specified for such election, post notice of such election in not less than three (3) public places within the district, and in incorporated cities and towns at least one (1) notice must be posted at each voting place designated for such election.

Publication of notice.

In school districts of the first class the board of trustees must also cause the notice to be published once a week for two (2) successive weeks in some newspaper of general

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circulation in the district, if one be published therein, in addition to such posting."

Sec. 1224.11, R. C. 1935, amended.

Section 5. That Section 1224.11, Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Preparation of ballots.

"Section 1224.11. **Preparation of Ballots—Form.** The school district clerk shall cause ballots to be prepared for all such bond elections, and whenever bonds for more than one purpose are to be voted upon at the same election, separate ballots shall be prepared for each purpose. All such ballots shall be substantially in the following form:

OFFICIAL BALLOT
SCHOOL DISTRICT BOND ELECTION

Form of ballot.

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BONDS—YES" if you wish to vote for the bond issue; if you are opposed to the bond issue make an X or similar mark in the square before the words "BONDS—NO".

Shall the board of trustees be authorized to issue and sell bonds of this school district in the amount of..... dollars ($.....) bearing interest at a rate not exceeding six per centum (6%) per annum, payable, semi-annually, during a period not exceeding.....years, for the purpose of.....(here state the purpose the same way as in the notice of election).

☐ BONDS—YES.

☐ BONDS—NO".

Sec. 1224.16, R. C. 1935, amended.

Section 6. That Section 1224.16, Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 1224.16. **Form of Notice of Sale of Bonds.** The notice of sale shall state the purpose or purposes for which the bonds are to be issued and the amount proposed to be issued for each purpose, and shall be substantially in the following form:

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'NOTICE OF SALE OF SCHOOL DISTRICT BONDS.

Form of notice of sale of bonds.

Notice is hereby given by the board of trustees of School District No.....of.....County, State of Montana, that the said board of trustees will on the..... day of....., 19....., at the hour of.....o'clock....m. at....., in the said school district, sell to the highest and best bidder for cash, either amortization or serial bonds of the said school district in the total amount of.....dollars, ($.....), for the purpose of.....'

Amortization bonds will be the first choice and serial bonds will be the second choice of the said school board.

If amortization bonds are sold and issued, the entire issue may be put into one single bond or divided into several bonds, as the said board of trustees may determine upon at the time of sale, both principal and interest to be payable in semi-annual installments during a period of .....years from the date of issue.

If serial bonds are issued and sold they will be in the amount of.....dollars, ($.....) each. except the first bond which will be in the amount of .....dollars, ($.....) the sum of..... dollars ($.....) of the said serial bonds will become payable on the.....day of....., 19....., and the sum of.....dollars, ($.....) will become payable on the same day each year thereafter until all of such bonds are paid.

The said bonds, whether amortization or serial bonds, will bear date of....., 19....., and will bear interest at a rate not exceeding six per centum (6%) per annum, payable semi-annually, on the.....day of..... (month).....and.....(month).....in each year, and will be redeemable in full. (Here insert optional provisions, if any, to be recited on the bonds.)

To sell for not less than par value.

The said bonds will be sold for not less than their par value with accrued interest, and all bidders must state the lowest rate of interest at which they will purchase the bonds at par. The board of trustees reserves the right to reject any and all bids and to sell the said bonds at private sale.

All bids other than by or on behalf of the state board of land commissioners must be accompanied by a certi-

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fied check in the sum of.....dollars, ($.....) payable to the order of the clerk, which will be forfeited by the successful bidder in the event that he shall refuse to purchase the said bonds. Certified check to accompany bid.

All bids should be addressed to the undersigned clerk.

.....
Chairman, School District No.....
of.....County.
Address: .....

ATTEST:

.....
Clerk, School District No.....
of.....County.
Address: ....."

Section 7. That Section 1224.17, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 1224.17, R. C. 1935, amended.

"Section 1224.17. **Publication of Notice of Sale.** The school district clerk shall cause such notice to be published once a week for four successive weeks in some newspaper printed and published in the *county* in which the school district is situated, *and when the amount of such bonds to be sold is ten thousand dollars ($10,000.00) or more a regular notice thereof shall be published in some daily newspaper of the State printed and published once in a city of the first class and having a general circulation throughout the State,* the first publication to be not less than thirty (30) days prior to the date of sale. *When the amount of bonds to be sold is ten thousand dollars ($10,000.00)* or more, if so directed by the board of trustees, the clerk shall also cause a brief notice of the bond sale to be published in some newspaper in the City of New York. The clerk shall immediately after the first publication of such notice mail a copy thereof to the state board of land commissioners." Publication of notice of sale.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 9. This act shall be in full force and effect, on and after its passage and approval. Effective date.

Approved March 17, 1939.

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CHAPTER 179

An Act to Amend Section 214, Revised Codes of Montana, 1935, Requiring Public Officers to Allow the State Examiner Access to Their Cash and Bank Accounts During the Examination of Their Offices, Providing for the Suspension of Any Officer Who Refuses Access to Cash, Bank Accounts, Books and Records of Their Offices or When a Shortage in Accounts Appears After Verification of Accounts, Providing for the Removal of Any Public Officer Where Shortage Is Shown Upon Examination of Any Public Office; Providing for the Filing of Reports by the State Examiner and the Appointment of a Successor for Any Officer Suspended or Removed From Office.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 214, R. C. 1935, amended.

Section 1. That Section 214 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Access to accounts of public officers.

"Section 214. **Access to Accounts of Public Officers—Actions to Compel.** The state examiner shall have full power and authority to count the cash, verify the bank accounts and verify any and all accounts of any public officer whose accounts he is examining pursuant to law.

Grounds for suspension of public officers.

Any state, county, city, town or school district officer who shall refuse to accord the state examiner access during an examination of such officer's accounts, to his cash, bank accounts, or any of the papers, vouchers or records of his office, *or if the state examiner, after counting the cash and verifying the bank accounts of such officer shall find that a shortage exists in the accounts of said officer, the state examiner shall forthwith file a verified preliminary report showing the refusal of such officer to accord to him access to the examination of such accounts, cash, bank accounts, papers, vouchers or records, or the existence of such shortage, and the amount or approximate amount thereof with the secretary of state if such officer shall be a state officer, with the board of county commissioners of the proper county if the officer be a county or school district officer, and with the city or town council if the officer be a city or town officer; upon the filing of such verified statement,* such officer shall immediately be sus-

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pended from *the duties and emoluments of his* office, *and the governor, in the case of a state officer, and the board of county commissioners of the county in case of county or school district officers, and the city or town council in case of a city or town officer, shall appoint some qualified person to such office, pending the completion of such examination.*

Procedure after completion of audit.

Upon the completion of the audit or examination of the accounts of such officer by the state examiner, if a shortage shall be found to have existed in the accounts of such officer on the date of the commencement of such examination, the state examiner shall file, in the office of the secretary of state in case of a state officer, and the board of county commissioners of the proper county in the case of a county or school district officer, and with the city or town council in the case of a city or town officer, a verified final report of the examination or audit, showing such shortage, whereupon the right of such officer to such office shall be forfeited, and such office shall thereupon become vacant as of the date of the suspension of such officer as hereinabove provided, and the person appointed to such office upon the suspension of said officer shall hold said office until the election and qualification of his successor, as provided by law.

Ousted officer may proceed in quo warranto.

Any officer whose right to office has been forfeited may, within ten days after the filing of the state examiner's final report or audit as herein provided, institute in the district court of the proper judicial district, a proceeding in quo warranto to test the right of his successor to hold such office, and the accuracy of the said final report and audit of the state examiner."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 180

An Act to Amend Section 219, Revised Codes of Montana, 1935, Relating to Employment of Assistants, Deputies and Clerks by the State Examiner, and Fixing Their Salaries.

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Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 219, R. C. 1935, amended.

Section 1. That Section 219, Revised Codes of Montana, 1935, be, and the same is hereby amended so as to read as follows:

Assistants, deputies and clerks; salaries.

"Section 219. **Assistants, Deputies and Clerks—Salaries.** The state examiner shall be allowed one first assistant at a salary of three thousand dollars ($3,000.00) per year, *and not to exceed six (6) deputy examiners, each at a salary of not to exceed twenty-seven hundred dollars ($2700.00) per year,* and one clerk at a salary of fifteen hundred dollars ($1500.00) per year."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 181

An Act to Amend Section 2235 of the Revised Codes of Montana, 1935, Relating to the Sale of Unredeemed Property by County Commissioners.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2235, R. C. 1935, amended.

Section 1. That Section 2235 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sale of unredeemed property by county commissioners.

"2235. **Sale of Unredeemed Property by County Commissioners.** Whenever the county has become or attempted to become the purchaser of any property, real or personal, of a value in excess of one hundred dollars ($100.00), sold for delinquent taxes, and said property has not been redeemed by the person entitled to do so, and a tax deed or instrument purporting to convey title has been issued to the county, whether the same was regular or irregular, valid or invalid, the board of county commissioners may, at any time, by an order entered upon the minutes of its proceedings, sell such property at public auction at the front door of the courthouse; provided,

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however, that thirty (30) days' notice of such sale shall be given *by publication in a newspaper printed in the county, such notice to be published once a week for three successive weeks, and by posting notice of such sale in at least three public places in the county.*

Notice to be published in newspaper.

Such sale may be made for cash or, in the case of real property, on such terms as the board of county commissioners may approve; provided, however, that if such sale is made on terms at least twenty (20%) per centum of the purchase price shall be paid in cash at the date of sale, and the remainder may be paid in installments extending over a period not to exceed five years, and all such deferred payments shall bear interest at the rate of four (4%) per centum per annum.

Terms of sale.

Provided, further, that in the case of real estate, the board of county commissioners may in its discretion exchange said real estate for bonds issued by the home owners loan corporation, or any bonds, debentures, or other securities issued by any company or corporation organized under any act of the congress of the United States upon which said bonds, debentures or other securities the interest or principal is guaranteed by the United States. Such bonds may be taken at not more than the par value thereof, as to all or any part of the purchase price, all in accordance with the terms and conditions as in this act provided; and no such bonds may be accepted for part or full payment if the purchase price shall be less than the appraised value as set by the board of county commissioners.

Exchange of real estate for bonds guaranteed by the United States.

The county treasurer shall hold such bonds, debentures or other securities and collect the interest thereon and the principal thereof when due; all money collected or received shall be distributed as hereinafter provided. The board of county commissioners shall in its discretion dispose of such bonds from time to time for the use and benefit of the county at not less than the market value thereof.

Duties of county treasurer.

If a sale is made on terms the chairman of the board of county commissioners shall execute a contract containing such terms as shall be provided by a uniform contract prescribed by the board of equalization upon payment of the purchase price in full together with all interest which may become due on any installments, or

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Deed to be issued by chairman of board of county commissioners.

deferred payments, the chairman of the board of county commissioners shall execute a deed to the purchaser, or his assigns, or such other instrument as will be sufficient to convey all of the title of the county in and to the property so sold. Provided, further, that at any time before such sale, the taxpayer whose property has been deeded to the county may purchase such property by payment to the county of the full amount of the taxes, penalties and interest for which such property was sold and such purchase and payment may be effected by an installment contract with annual payments, as provided in Section 4465.9.

On the first Monday in March following the execution of such contract, or deed, as the case may be, the property shall be subject to taxation in the name of the purchaser or his assignee, and the purchaser, or his assignee, shall thereafter pay all taxes and assessments lawfully laid against such property.

Previous sales and deeds confirmed.

All sales heretofore made, or attempted to be made, by counties of property purchased for taxes, and the deeds to purchasers from such counties, whether or not irregular or void, for any reason, or because of any irregularity or failure to follow the directions or comply with the provisions of any statute relating to such deeds, or relating to the taxation or sale of such property for taxes, or the time or manner of redeeming property, or of securing a tax deed, are hereby confirmed, and said deeds and any deed or contract executed under this Section shall vest in the purchaser, as of the date of said deed, or contract, all the right, title, interest, estate, lien, claim and demand of the State of Montana, and of the county, in and to said real estate, including the right to recover unpaid taxes, interest and penalties if the tax sale or any of the tax proceedings or tax deed shall be attacked and held irregular or void. If the property real or personal of which the county has become possessed, be of a value of less than one hundred dollars ($100.00), it will be sold in accordance with the provisions of Section 4465.9.

The proceeds of every such sale shall be paid over to the county treasurer, who shall apportion and distribute the same in the following manner:

Apportionment of proceeds of sale.

1. If such proceeds are in excess of the aggregate amount of all taxes and assessments accrued against such

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property for all funds and purposes, without penalty or interest, then so much of such proceeds shall be credited to each fund or purpose, as the same would have received had such taxes been paid before becoming delinquent, and all excess shall be credited to the general fund of the county.

Proceeds pro rated, when.

2. If such proceeds shall be less in amount than the aggregate amount of all taxes and assessments accrued against such property for all funds, and purposes, without penalty or interest, then such proceeds shall be pro rated between such funds and purposes in the proportion that the amount of taxes and assessments accrued against such property for each such fund or purpose bears to the aggregate amount of taxes and assessments accrued against such property for all funds and purposes."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall take effect and be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 182

An Act to Amend Section 5278.10 of the Revised Codes of Montana of 1935, Prescribing the Qualifications of Persons Entitled to Vote at City and Town Bond Elections, for Closing of Registration Books and for Preparation of Lists of Qualified Electors and Poll Books and Repealing Section 5199.2 of the Revised Codes of Montana of 1935 and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5278.10, R. C. 1935, amended.

Section 1. That Section 5278.10 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Who are entitled to vote.

"Section 5278.10. **Who Are Entitled to Vote—Registration of Electors.** Only such registered electors of the city or town whose names appear upon the last preceding assessment roll for state and county taxes, as taxpayers

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upon property within the city or town, shall be entitled to vote upon any proposition of issuing bonds by the city or town. *Upon the adoption of the resolution calling for the election the city or town clerk shall notify the county clerk of the date on which the election is to be held and the county clerk must cause to be published in the official newspaper of the city or town, if there be one, and if not in a newspaper circulated generally in the said city or town and published in the county where the said city or town is located, a notice signed by the county clerk stating that registration for such bond election will close at noon on the fifteenth (15th) day prior to the date for holding such election and at that time the registration books shall be closed for such election. Such notice must be published at least five (5) days prior to the date when such election books shall be closed.*

Publication of notice of close of registration.

After the closing of the registration books for such election the county clerk shall promptly prepare lists of the qualified electors of such city or town who are taxpayers upon property therein and whose names appear on the last completed assessment roll for state, county and school district taxes and who are entitled to vote at such election and shall prepare poll books for such election as provided in Section 568 of the Revised Codes of Montana of 1935, and deliver the same to the city or town clerk who shall deliver the same to the judges of election prior to the opening of the polls. It shall not be necessary to publish or post such lists of qualified electors.''

County clerk to prepare lists of qualified electors, and poll books.

Section 2. That Section 5199.2 of the Revised Codes of Montana of 1935 and all acts and parts of acts in conflict herewith are hereby repealed.

Sec. 5199.2, R. C. 1935, repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 17, 1939.

CHAPTER 183

An Act to Amend the Following Sections of the Revised Codes of Montana, 1935; namely, Section 4208.2, Relating to Statement Required on Mixed Fertilizer Container: Section 4208.6, Relating to Samples of Commer-

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cial Fertilizer for Tests and Analyses; Section 4208.7, Relating to the Method of Taking and Preserving Samples of Commercial Fertilizer and the Manner of Analyzing; Section 4208.9, Relating to the Report of Analyses of Commercial Fertilizer and the Payment of Expenses; Section 4208.10, Relating to Report of the Chemist Concerning Analyses, Fees, Expenditures and Disposal of Surplus License Fees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4208.2, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

Sec. 4208.2, R. C. 1935, amended.

"Section 4208.2. Each lot or parcel of mixed commercial fertilizer sold, offered or exposed for sale, or distributed within this State shall have on each package or container, in a conspicuous place on the outside, a legible or plainly printed statement in the English language, clearly and truly certifying:

Label required, and contents thereof.

(a) **Weight.** The net weight of the contents of the package, lot or parcel.

(b) **Name.** The name, brand, or trade mark.

(c) **Manufacturer.** The name and principal address of the manufacturer or person responsible for placing the commodity on the market.

(d) **Nitrogen.** The minimum percentage and source of nitrogen in available form.

(e) **Potash.** The minimum percentage and source of potash K_2O, soluble in distilled water.

(f) **Phosphoric Acid.** The minimum percentage and source of available phosphoric acid P_2O_5 *and also the minimum total phosphoric acid content.*

No other statement of chemical compounds, except as above, shall be placed on any such container.

All statements regarding chemical contents on labels must be in print or type of uniform size."

Section 2. That Section 4208.6, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

Sec. 4208.6, R. C. 1935, amended.

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Fertilizer to be tested by the chemist of the Montana agricultural experiment station.

"Section 4208.6. The chemist of the Montana agricultural experiment station, shall, at least once each year, obtain at least one sample of each brand of commercial fertilizer offered for sale in this State to make proper analyses and tests to determine (1) the net weight of the contents of each package examined; (2) the percentage of nitrogen in available form; (3) the percentage of potash K_2O, soluble in distilled water, and (4) the percentage of available *and total* phosphoric acid P_2O_5, and to inspect labels on each parcel or container, and determine whether or not they conform to the provisions of this act."

Sec. 4208.7, R. C. 1935, amended.

Section 3. That Section 4208.7, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

Samples, how procured.

"Section 4208.7. All samples taken *under the provisions of Section 4208.6* must be composites of equal portions taken from at least five (5) original packages in such manner as to be truly representative of the contents of the package. Such samples shall be thoroughly mixed and immediately placed in containers which exclude air. Analyses of such samples shall be made in accordance with the methods of the association of official agricultural chemists."

Sec. 4208.9, R. C. 1935, amended.

Section 4. That Section 4208.9, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

Report of analyses.

"Section 4208.9. All such analyses of commercial fertilizer, as required by this act, shall be reported to the commissioner of agriculture of the State of Montana. All expenses for such analyses, together with supplies of all kinds needed for making the same, and also the traveling and other expenses incurred in collecting samples, as required herein, *together with all administrative expenses including the expense of publishing reports,* shall be provided and paid out of the fund arising from the license fees provided for in Section 4208.5, *upon verified claims filed with and audited by the commissioner of agriculture and by him presented for allowance by the state board of examiners, in the same manner as all claims contracted for and in behalf of the State of Montana. It shall be the duty of the commissioner of agriculture to enforce this act and for that purpose, he shall make all proper and necessary rules and regulations.*

Expenses, how to be paid.

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Section 5. That Section 4208.10 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 4208.10, R. C. 1935, amended.

"Section 4208.10. The chemist of the Montana agricultural experiment station shall *annually, not later than October fifteenth, make a report to the commissioner of agriculture* containing a correct statement of all analyses made. *The commissioner of agriculture shall, when funds are available, publish such report separately or in conjunction with any regular report of the department of agriculture.* Any surplus of license fees remaining on *the first day of January following* the close of *each* fiscal year shall *then* be placed to the credit of the Montana agricultural experiment station."

Annual report of analyses.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 17, 1939.

CHAPTER 184

An Act to Amend Sections 1751.2, 1751.4, 1751.5, 1751.6, 1751.7 and 1751.9, and to Repeal Sub-paragraphs "a" and "c" of Section 1751.3, of the Revised Codes of the State of Montana of 1935, an Act Regulating the Size and Weight of Highway Vehicles; Regulating the Size and Number of Trailers and Towed Vehicles, and Limiting the Total Load Permissible for Each Vehicle and the Gross Weight of Any Axle, and Prohibiting the Use of Vehicles With Wheels Having on Their Periphery Any Block, Lug, Stud, Flange, Cleat or Spike; the Issuance of Special Permits Covering the Movement of Excess Loads Over Highways; the Power of the Highway Commission and Local Road Authorities to Impose Load Limit Restrictions When Conditions Warrant; the Delegation of Authority for the Enforcement of Statutory Load Limit Restrictions and the Penalties That Are to Be Imposed for Violations Thereof; and Repealing All Acts and Parts of Acts in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Sub-paragraphs (a), (b) and (c). Sec. 1751.2. R. C. 1935, amended.

Section 1. That sub-paragraphs (a), (b) and (c) of Section 1751.2, Revised Codes of Montana, 1935, be and the same are hereby amended to read as follows:

"Section 1751.2. **Size of Vehicles and Loads.**

Size of vehicles and loads.

(a) *Width.* No vehicle shall exceed a total outside width, including any load thereon, of eight (8) feet, except *certain vehicles now in operation which, by reason of the substitution of pneumatic tires for other types of tires, exceed the above limit; provided, further in no case shall such width exceed one hundred two (102) inches and that after January 1, 1945, no equipment exceeding eight (8) feet in width, shall be operated;* and further excepting implements of husbandry temporarily propelled or moved upon the public highway, and road machinery engaged in the construction and maintenance of highways.

Width.

Height.

(b) *Height.* No vehicle, unladen or with load, shall exceed a height of *thirteen (13)* feet six (6) inches, *except that the public body having jurisdiction may at its discretion reduce this height consistent with conditions of individual sections of highway.*

Length.

(c) *Length.* No vehicle shall exceed a length of *thirty-five (35) feet extreme over all dimension, inclusive of front and rear bumpers. Further, combinations of vehicles shall consist of not more than two units, and, when so combined, shall not exceed a total length of sixty (60) feet except that the public body having jurisdiction may, at its discretion, reduce this length consistent with the conditions of individual highways. For occasional movements of materials or objects of dimensions which exceed the limits herein provided, a special permit shall be required."*

Sub-paragraphs "a" and "c", Sec. 1751.3, R. C. 1935, repealed.

Section 2. That sub-paragraph "a" and "c" of Section 1751.3, Revised Codes of Montana, 1935, be, and the same are hereby repealed.

Sec. 1751.4, R. C. 1935, amended.

Section 3. That the regulations specified in Section 1751.4, Revised Codes of Montana, 1935, be, and the same are hereby repealed, and said section be and the same is hereby amended to read as follows:

"Section 1751.4. **Weight of Vehicles and Loads.**

Weight of vehicles and loads.

(A) *No wheel equipped with pneumatic tires shall carry a load in excess of nine thousand (9,000) pounds, nor shall*

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the total load carried by any axle having wheels equipped with pneumatic tires exceed eighteen thousand (18,000) pounds.

(B) *No wheel equipped with solid rubber, or cushion tires shall carry a load in excess of eight thousand (8,000) pounds, nor shall the total load carried by an axle having wheels equipped with* such tires exceed sixteen thousand (16,000) pounds.

(C) *An axle load shall be defined as the total load on all wheels whose centers may be included between two parallel transverse planes forty (40) inches apart.*

(D) *The wheels of all vehicles, including trailers, except those operated at a speed of ten (10) miles per hour, or less, shall be equipped with pneumatic tires.*

(E) *Gross Weights.*

Gross weights.

(a) *Subject to the limitation imposed by the statutory axle loads, no vehicle or combination of vehicles shall be operated whose gross weight, with load,* exceeds that given by the formula:

W=700 (L plus 40) where

W=total gross weight, with load, in pounds

L=the distance between the first and last axle of a vehicle or combination of vehicles in feet.

(b) *The total gross weight, with load, on any group of axles of a vehicle or combination of vehicles where the distance between the first and last axles of the group is twenty (20) feet or less, shall not exceed that given by the formula:*

W=650 (L plus 40) where

W=total gross weight, with load, in pounds on the group of axles under consideration

L=the distance between the first and last axles of the group under consideration.

(F) *Load Per Inch of Tire Width.*

Load per inch of tire width.

(a) *No wheel equipped with pneumatic, solid rubber, or cushion tires shall carry a load in excess of six hundred (600) pounds for each inch of tire width.*

(b) *The width of pneumatic tires shall be taken as the manufacturer's rating. The width of solid rubber and cushion tires shall be measured at the flange of the rim."*

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Sec. 1751.5, R. C. 1935, amended.

Section 4. That Section 1751.5, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 1751.5. **Officers May Weigh Vehicles and Require Removal of Excessive Loads.**

Officers may weigh vehicles and require removal of excessive loads.

Any peace officer, *officer of the Montana highway patrol, or employees of the maintenance department of the Montana highway commission* having reason to believe that the weight of a vehicle and load is unlawful are authorized *and empowered* to weigh the same, either by means of portable or stationary scales, and may require that such vehicle be driven to the nearest scales in the event such scales are within two (2) miles. The peace officer, *officer of the Montana highway patrol, employees of the maintenance department of the Montana highway commission* may then require the driver to unload immediately such portion of the load as may be necessary to decrease the weight of such vehicle to conform to the maximum allowable weights specified in this act."

Sec. 1751.6, R. C. 1935, amended.

Section 5. That Section 1751.6, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 1751.6. **Permits for Excess Size and Weight.**

Permits for excess size and weight.

The state highway commission, and local authorities in their respective jurisdiction, may, in their discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing, authorizing the applicant to operate or move a vehicle of a size or weight exceeding the maximum specified in this act upon any highway under the jurisdiction of and for the maintenance of which the body granting the permit is responsible; *provided, however, that no permits are to be issued for the moving of loads for any considerable distances over such highways when the loads in question are of such excess width that all traffic lanes upon the highway concerned would be blocked to the serious inconvenience of normal traffic; and further provided that no permits are to be granted for the moving of loads of such excess width that a hazard to traffic would be involved for any considerable distances over the highways concerned except to those applicants who carry public liability and property damage insurance for the protection of the traveling public*

Public liability insurance required.

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as a whole. No permit shall be issued for a period of more than nine (9) months and every such permit shall designate the routes to be traversed and may contain any other restrictions or conditions deemed necessary by the body granting such permit, and may be cancelled at any time by such body for cause. Every such permit or a true copy thereof shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer, *officer of the Montana highway patrol, or employees of the maintenance department of the Montana highway commission* and it shall be a misdemeanor for any person, *firm or corporation* to violate any of the terms or conditions of such permit."

Duration of permit.

Section 6. That Section 1751.7, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 1751.7, R. C. 1935, amended.

"Section 1751.7. **When State or Local Road Authorities May Restrict Right to Use Highways.**

State or local road authorities may by ordinance or resolution prohibit the operation of vehicles upon any public highway under their respective jurisdictions or impose restrictions as to the weight of vehicle *when operated upon any public highway under the jurisdiction of and for the maintenance of which such authorities are responsible,* whenever any said highway by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon are prohibited or the permissible weights thereof reduced. Such authorities enacting any such ordinance or resolution shall erect or cause to be erected signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected thereby, and the ordinance or resolution shall not be effective until or unless such signs are erected. Such authorities may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or impose limitations as to the weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways."

When state or local road authorities may restrict right to use highway.

Section 7. That Section 1751.9, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 1751.9, R. C. 1935, amended.

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"Section 1751.9. **Penalties for Misdemeanor.**

(a) It shall be unlawful and constitute a misdemeanor for any person, *firm or corporation* to violate any of the provisions of this act unless such violation is by this act or other law of this State declared to be a felony.

(b) Any person, *firm or corporation first* convicted of a misdemeanor for a violation of any of the provisions of this act for which another penalty is not provided shall for a conviction thereof be punished by a fine of not less than *ten dollars ($10.00)* nor more than *fifty dollars ($50.00),* or by imprisonment in the county or municipal jail for not less than *five (5)* days nor more than *twenty-five (25)* days; for a second such conviction within one (1) year thereafter such person, *firm or corporation* shall be punished by a fine of not less than *fifty dollars ($50.00),* nor more than *two hundred dollars ($200.00)* or by imprisonment in the county or municipal jail for not less than *twenty-five (25)* days nor more than *one hundred (100)* days, or by both such fine and imprisonment; upon a third or subsequent conviction within one (1) year after the first conviction such person, *firm or corporation* shall be punished by a fine of not less than *two hundred dollars ($200.00),* nor more than *five hundred dollars ($500.00),* or by imprisonment in the county or municipal jail for not less than *one hundred (100) days* nor more than six (6) months, or by both such fine and imprisonment."

Penalties for misdemeanor.

Section 8. If any provision of this act or the application thereof to any person, firm or corporation is held invalid, such invalidity, shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of the act are declared to be severable.

Separability of provisions.

Section 9. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 10. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 17, 1939.

CHAPTER 185

An Act Providing for the Investigation by the State Water Conservation Board and State Engineer of the Waters of This State, and Authorizing the State En-

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gineer Under the Direction of the State Water Conservation Board to Bring and Conduct Actions for the Adjudication of Streams; Providing for a Reference of Issues of Fact in Water Right Actions and Fixing Powers and Duties of Referees Therein; Providing for Surveys by State Engineer, and Securing of Evidence and Making Reports and Plats; and Providing That Such Reports and Plats May Be Offered and Received as Evidence, and Further Fixing Procedure in Such Cases.

Be it enacted by the Legislative Assembly of the State of Montana:

Declaration of policy.

Section 1. It is hereby declared to be the policy of this State and necessary for the welfare of the State and its citizens, that the waters of this State and especially interstate streams arising out of the State be investigated and adjudicated as soon as possible in order to protect the rights of water users in this State and negotiate interstate compacts in relation thereto, and that the state water conservation board and state engineer make investigations to secure necessary information and initiate and carry on actions therefor.

State engineer to bring actions for adjudication of streams.

Section 2. At the direction of the state water conservation board the state engineer is hereby authorized to bring action to adjudicate the waters of any stream or of any stream and its tributaries in any county traversed by said stream.

Appointment of referee to take testimony.

Section 3. In said actions the state engineer, upon direction of the state water conservation board, or in any action pending for the adjudication of a water right, any party thereto, may make application to the court for the appointment of some competent person or persons to act as a referee or referees in said cause and to take testimony therein, and the court may appoint a referee or referees who shall proceed as herein set forth. In said order of reference the court may submit to said referee or referees any or all issues of fact in said cause.

Notice of application for appointment of referee.

Section 4. Prior to the appointment of such referee two weeks notice of said application and the name of the referee or referees as selected by said court shall be given or mailed to all parties who shall have appeared in said case. Said referee or referees need not be residents of the county in which said action is pending. Any

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party may object to the appointment of any person as referee on the same grounds as he may object to him as a trial juror as provided in Sections 9344 of this code except that no objection shall have entertained because of non-residence of referee in the county of such adjudication. The provisions of Sections 9377, 9378, 9379, 9380 and 9382, Revised Codes, shall govern and apply to referees in the actions herein described.

Duties of state engineer.

Section 5. The state engineer shall either before or after the bringing of such action upon direction of the state water conservation board or upon the direction of the court do all things, make all surveys, and perform all services required by said board in the securing of all necessary information and making same available to said board or others who may be interested therein including the courts of this State. The state engineer or some qualified assistant may proceed to make an examination of any stream or streams as required by said board and the works diverting therefrom, said examination to include the measurement of the discharge of said stream and of the carrying capacity of the various ditches and canals, an examination of the irrigated lands and an approximate measurement of the lands irrigated from the various ditches and canals, and to take such other steps and gather such other data and information as may be essential to the proper understanding of the relative rights of the parties interested, which said observation and measurement shall be reduced to writing and made a matter of record at his office, and it shall be the duty of the state engineer to make or cause to be made such maps or plats thereof as he shall deem necessary or shall be required by said board, and to file with said board a detailed report and copies of such maps or plats covering such information so acquired by him. Any or all such surveys, reports, maps and plats may be furnished to the judge of said court or the referee or referees mentioned herein and may be introduced as evidence in such proceedings; provided that the costs and expenses incurred in carrying out the provisions of this Section shall be paid by the state water conservation board.

Scope of examination of streams.

Surveys, reports, maps and plats may be introduced as evidence.

Hearings by referee.

Section 6. Said referee or referees shall hold such hearings in said cause as may be necessary relating to the rights of the respective claimants to water upon any stream or streams, and shall take testimony upon ques-

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tions submitted to him or them and shall continue such hearing until completed, but the said referee or referees shall have power to adjourn the taking of testimony from time to time and from place to place to further the convenience of those interested. Such testimony shall be taken in accordance with established rules of evidence.

Report of referee.

Section 7. The report of the said referee or referees shall contain findings of fact upon the issues submitted but shall not contain conclusions of law. All evidence before said referee shall be transcribed and submitted to the court with the findings of such referees. In proceedings described herein, all vested and decreed water rights shall be herein recognized.

Recognition of decreed water rights.

District court procedure.

Section 8. After the conclusion of the taking of such testimony the said referee or referees shall file their findings of fact with the clerk of the district court wherein said action is pending which findings of fact shall remain on file and subject to investigation by parties interested therein. The clerk of court shall notify the parties or their attorneys by mail upon the filing of such findings of fact by the referee or referees. The parties shall have thirty days from the mailing of such notices during which time any party to said action may file in said court objections or exceptions to any such findings of fact. As to any findings to which no exceptions are filed, same may be adopted by the court as findings of said court. As to any findings to which objections are filed, the court shall consider such proposed findings together with the evidence in relation thereto and may adopt, reject, or modify such findings. The court may upon request or of its own motion make additional findings in said cause. All conclusions of law shall be determined by the court in the same manner as conclusions of law are determined by the court in any action to be tried before the court.

Judgment.

Section 9. The court shall thereafter render its judgment and same shall be in full force and of the same effect as if all testimony had been taken directly by the court.

Repealing clause.

Section 10. All acts or parts of acts in conflict herewith are hereby repealed.

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Effective date.

Section 11. This act shall be in full force and effect upon its passage and approval.

Approved March 17, 1939.

CHAPTER 186

An Act to Amend Section 9111 of the Revised Codes of Montana of 1935, as Amended by Chapter 175 of the Twenty-fifth Legislative Assembly, 1937, Relating to Summons—How Served, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 9111, R. C. 1935, amended.

Section 1. That Section 9111 of the Revised Codes of Montana of 1935, as amended by Chapter 175 of the twenty-fifth legislative assembly, 1937, be, and the same is amended to read as follows:

Summons, how served.

"Section 9111. **Summons — How Served.** The summons must be served by delivering a copy thereof, as follows:

Domestic corporation.

1. If the suit is against a corporation formed under the laws of this State, to the president or other head of the corporation, secretary, cashier, or managing agent thereof.

Foreign corporation.

2. If the suit is against a foreign corporation, or a non-resident joint stock company or association, doing business and having a managing or business agent, cashier, or secretary within this State, to such agent, cashier or secretary, or to a person designated as provided in Section 6652 of the Civil Code.

Minor child.

3. *If against a minor child, residing within this State, to such minor, personally, and also to either his father, mother, or legal guardian; or, if the father, mother or legal guardian be not within this State, then to such minor, personally, and also to any person having the care, custody or control of such minor, or with whom he resides, or in whose service he is employed.*

Insane person.

4. If against a person residing within this State, who has been judicially declared to be of unsound mind, or

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incapable of conducting his own affairs, and for whom a guardian has been appointed, to such person, and also to his guardian.

5. If against a county, city or town, to the president or chairman of the board of county commissioners, president of the council or trustees, mayor, or other head of the legislative department thereof. Public body.

6. If the suit is against a corporation whose charter or right to do business in the State has expired or been forfeited, by delivering a copy thereof to any one of the persons who have become trustees for the corporation and its stockholders or members, and if none such can be found, service may be made upon the secretary of state in the manner prescribed by Section 9112 of the *Revised Codes of Montana, 1935.* Corporation whose charter has expired.

7. In all other cases to the defendant personally." Other cases.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 17, 1939.

CHAPTER 187

An Act to Amend Section 7136, Revised Codes of Montana, 1935, so as to Authorize Water Commissioners Appointed Under Provision of Chapter 82, Civil Code, Revised Codes, to Admeasure and Distribute Stored and Supplemental Waters Appropriated and Acquired by the State Water Conservation Board in the Same Manner and Under the Same Laws, Rules and Regulations as Decreed Water Rights Are Admeasured and Distributed and Providing for the Payment of Compensation of Such Water Commissioner or Commissioners for Admeasuring and Distributing Such Stored and Supplemental Waters.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 7136, Revised Codes of Montana, 1935, is hereby amended so as to read as follows: Sec. 7136, R. C. 1935, amended.

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"Section 7136. Whenever the rights of persons to use the waters of any stream, ditch or extension of ditch, water course, spring, lake, reservoir, or other source of supply have been determined by a decree or decrees of a court of competent jurisdiction, it shall be the duty of the judge of the district court having jurisdiction of the subject matter, upon the application of the owners of at least *fifteen* per cent of the water rights affected by the decree or decrees, in the exercise of his discretion, to appoint one or more commissioner, who shall have authority to admeasure and distribute to the parties bound by the decree or decrees the waters to which they are entitled, according to their rights as fixed by such decree or decrees.

Appointment of water commissioners.

The state water conservation board or any person or corporation operating under contract with said board, or any other owner of stored waters may petition the court to have such stored waters distributed by the water commissioners appointed by said court. The court may thereupon make an order requiring the commissioner or commissioners appointed by the court to distribute such stored water when and as released to water users entitled to the use thereof.

Right to petition court for water distribution.

Upon the issuance of such order the water commissioner or commissioners shall have authority and it is hereby made his or their duty to admeasure and distribute to the users thereof as their interests may appear and be required, the stored and supplemental waters stored and as released by the state water conservation board under provisions of the state water conservation act, Chapter 35, Revised Codes of Montana, 1935, to be diverted into and through said streams, ditch or extension of ditch, water course, spring, lake, reservoir, or other source of supply in the same manner and under the same rules and regulations as decreed water rights are admeasured and distributed, and such water commissioner or commissioners and the owners and users of such stored and supplemental waters shall be bound by and be subject to the provisions of Chapter 82, Civil Code, Revised Codes, 1935, and all acts amendatory thereof and supplemental thereto, provided that the admeasurements and distribution of such stored and supplemental waters shall in no way interfere with decreed water rights. The purpose of this act is to provide a uniform, equitable and economical distribution of adjudicated, stored and supplemental waters.

Court may order commissioner to distribute the stored waters of the state water conservation board.

Purpose of act.

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At the time of the appointment of *such* water commissioner or commissioners *the district court shall fix their compensation, and the owners and users of decreed, stored and supplemental waters shall pay their proportionate share of such fees and compensation.''*

Compensation of commissioners.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 17, 1939.

CHAPTER 188

An Act Relating to the Floating Indebtedness of Counties Outstanding at the Close of Business on the Twenty-eighth Day of February, 1939, and Providing for the Levying of Special Taxes or the Issuance of Funding Bonds to Pay Such Indebtedness When the Same Exceeds a Certain Amount.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The board of county commissioners of each county having, at the close of business on the 28th day of February, 1939, a floating indebtedness in excess of two-fifths (2/5) of one (1) per cent of the taxable valuation of the county for the fiscal year July 1, 1938 to June 30, 1939, consisting of valid and subsisting outstanding warrants drawn against any fund or funds, or valid and subsisting debts and liabilities payable out of any fund or funds and for which debts and liabilities warrants have not been issued, or consisting of both such outstanding warrants and debts and liabilities, and being without sufficient money in any such fund or funds with which to pay the same, and leave a balance or balances sufficient to meet the expenditures from such fund or funds necessary to be made therefrom during the fiscal year ending June 30, 1939, may provide for the payment of such floating indebtedness, or so much thereof as is in excess of the money in such fund or funds available for the payment thereof, by one of the two following methods:

Provisions for payment of floating indebtedness of counties.

(a) Funding the same by issuing funding bonds and selling such bonds in the manner provided by law; provided, however, that such bonds may be issued and sold

Funding bonds.

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without the board of county commissioners being required to submit the question of issuing such bonds at an election; and provided, further, that such bonds, when issued, may, with all other outstanding indebtedness of the county exceed, in the aggregate, the limit of indebtedness permitted by statute, but the total of all outstanding indebtedness of the county, including such bonds must not exceed in the aggregate, the limit of indebtedness permitted such county under Article 13 of the Constitution. Such bonds may be either amortization or serial bonds, the rate of interest thereon must not exceed five per centum per annum, and such bonds must not be issued for a longer term than ten (10) years, and all of the laws of this State governing the issuance, sale and exchange of county bonds, levying of taxes for payment of principal and interest thereof, and payment and redemption thereof, so far as applicable, shall apply to such bonds.

Kind of bonds.

Interest rate.

Special tax levy.

(b) By levying a special tax or taxes sufficient to pay such floating indebtedness with the interest thereon; provided, however, that the board of county commissioners may levy a special tax or taxes during the fiscal year commencing July 1, 1939, in an amount sufficient to pay the whole of such floating indebtedness, with the interest thereon, during such fiscal year, or such board of county commissioners may levy in each year, beginning with the fiscal year commencing July 1, 1939, a special tax or taxes in an amount sufficient to pay at least twenty (20) per centum of such floating indebtedness with interest thereon in each fiscal year, but such special taxes must be levied in such amounts as will be sufficient to fully pay the whole of such floating indebtedness with the interest thereon before the 1st day of July, 1943.

Proceeds to be deposited in special "debt reduction fund."

The proceeds of every such special tax levy shall be by the county treasurer deposited in a special fund to be designated "debt reduction fund", and shall not be used for any purpose whatever except for payment of the principal and interest of such floating indebtedness incurred prior to and outstanding on February 28, 1939; provided, that after the principal and interest of such floating indebtedness has been fully paid, any amount remaining in such special fund, or afterwards coming into the same from protested or delinquent taxes, may be transferred to the general fund of the county, or to

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such other county fund as the board of county commissioners may order.

Section 2. The board of county commissioners having any such floating indebtedness, and desiring to take advantage of any of the provisions of this act, must, not later than the 15th day of June, 1939, adopt a resolution, stating that it is the intention of the board of county commissioners of such county to provide for the payment of registered warrants outstanding at the close of business on February 28th, 1939, the method to be followed by such board of county commissioners in providing for the payment thereof, and the amount of such warrants issued and outstanding against each fund and which are to be paid by such method. If the board of county commissioners shall provide in such resolution for the payment of such warrants by the levying of a special tax or taxes in accordance with the provisions of Subdivision (b) of Section 1 of this act, said board shall, in its budget for the fiscal year commencing July 1, 1939, and in its annual budget each year thereafter, make an appropriation sufficient to pay the amount of such warrants as provided by such resolution, with the interest which will be due on such amount, and at the time of fixing tax levies for county purposes said board shall annually fix a special levy of such number of mills as may be necessary to raise such amount with such interest, until such warrants with the interest thereon are fully paid.

Procedure by county commissioners.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 17, 1939.

CHAPTER 189

An Act Providing for the Lettering on State Owned Motor Vehicles; the Kind, Size, and Place of Letters; Vehicles in Service of the Governor and Highway Patrol Excepted; and Providing for Penalties Therefor.

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Be it enacted by the Legislative Assembly of the State of Montana:

Kinds and size of letters.

Section 1. **Kinds and Size of Letters—Vehicles in the Service of the Governor and Highway Patrol Excepted.** Every motor vehicle owned by the State of Montana shall be indelibly and conspicuously lettered on each side thereof, in plain letters not less than two and one-half (2½) inches high, with the words "State of Montana" with the name of the proper department or institution inserted under the words "State of Montana". Such words shall be kept clear, distinct and visible at all times; provided, however, that the provisions of this act shall not be applicable to any such motor vehicle in the personal service of the governor or the highway patrol of this State, except that upon the front doors of any motor vehicle in their service there shall be placed the Great Seal of the State of Montana.

Vehicles in the service of the governor and highway patrol excepted.

Penalty.

Section 2. **Violation a Misdemeanor.** Any person violating the provisions of this act shall be guilty of a misdemeanor.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 17, 1939.

CHAPTER 190

An Act to Cancel of Record Defaulted War Defense Loans, Seed or Otherwise, Made to or Held by the State of Montana, as Authorized by Sections 5624-5637 Inclusive R. C. M. 1921, Which Have Been Extinguished by the Statute of Limitations or Other Laws of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Cancellation of defaulted war defense loans authorized.

Section 1. The state treasurer and all other state offices or state departments, affected thereby, are hereby authorized to cancel of record, all war defense loans, seed or otherwise, made to or held by the State of Montana, under the provisions of Sections 5624-5637 inclusive R. C. M., 1921, which were defaulted, and which have been extinguished by reason of the application of the

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statute of limitations, or other laws of the State of Montana.

Section 2. All acts and parts of acts herewith in conflict are repealed. Repealing clause.

Section 3. This act shall be in full force and effect upon its passage and approval. Effective date.

Approved March 17, 1939.

CHAPTER 191

An Act to Amend Section 2196 of the Revised Codes of Montana of 1935, Relating to Treasurer to Enter in a Book Description of Land Sold; if Taxes Paid Subsequent to Prior Tax Sale Certificate, County Treasurer to Make Entry, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2196 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Sec. 2196, R. C. 1935, amended.

"Section 2196. **Treasurer to Enter in a Book Description of Land Sold.** The county treasurer, before delivering any certificate, must in a book enter a description of the land sold corresponding with the description in the certificate, the date of sale, purchaser's name, and the amount paid, regularly number the descriptions on the margin of the book, and put a corresponding number on each certificate. Treasurer to enter in a book data as to land sold.

If taxes are paid subsequent to prior tax sale certificate, before such taxes become delinquent, by anyone other than the record owner of the land or to whom the land was assessed, the county treasurer shall make an entry in such book, opposite the name of such record owner of the land, or to whom the land was assessed, the date of such payment, the name of the person making such payment, and the amount paid. Such book must be open to public inspection without fee during office hours when not in actual use." Tax payment subsequent to prior tax sale certificate.

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Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 192

An Act to Amend Section 10178, Revised Codes of Montana, 1935, Relating to Limitation of Actions on Rejected Claims Against Estates of Deceased Persons.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 10178, R. C. 1935, amended.

Section 1. That Section 10178, Revised Codes of Montana, 1935, be, and the same hereby is, amended to read as follows:

Limitation of actions on rejected claim.

"Section 10178. **Limitation of Actions on Rejected Claim.** *When a claim is rejected, either by the executor or administrator, or the judge, the executor shall within ten (10) days thereafter, file such rejected claim with the clerk of court. Upon the filing of a rejected claim, the clerk of court shall, within three days thereafter, mail a notice of said rejection to the claimant, at his address as designated in said claim, and he shall file an affidavit of such mailing. The claimant must bring suit in the proper court against the executor or administrator within three (3) months after the date such rejected claim is filed, if it be then due, or within two (2) months after it becomes due, otherwise the claim shall be forever barred. When the claimant has been misled by the false statements of executor, administrator, or his attorney, or personal representatives, regarding the action taken by the executor or administrator on the claim whereby the claimant has been led to believe that his claim was either approved or not yet acted upon, and because of such false information he fails to bring suit within the time herein provided, the time for bringing suit on such claim is hereby extended for a period of three months from and after the discovery by the claimant of the falsity of such statements, provided that suit must be commenced prior to the approval of the final account of the executor or administrator."*

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 17, 1939.

CHAPTER 193

An Act to Require County Commissioners to Annually Select Tax Title Property to Be Sold and Offer the Same for Sale, and Authorizing the County Commissioners, With the Advice of the County Agricultural Planning Committees, to Establish Land Use Policies and Provide for Leasing Tax Title Lands, Under Such Conditions as Will Best Advance Public Benefit and Welfare, Including Leasing for Five to Ten Years for Grazing Purposes, With Power in the Commissioners to Fix the Carrying Capacity of the Land; and to Amend Section 2208.1, Revised Codes of the State of Montana, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2208.1 of the Revised Codes of the State of Montana be amended so that the same, when amended shall read as follows: Sec. 2208.1, R. C. 1935, amended.

"Section 2208.1. **Sale of Tax Lands—Terms—Taxation of Lands Sold—Lease of Lands—Exchange of Lands and Land Use Policies.** Whenever the county shall acquire any land by tax deed, it shall be the duty of the board of county commissioners, within six months after acquiring title, to make and enter an order for the sale of such lands at public auction at the front door of the courthouse, provided, however, that notice of such sale shall be given by publication in a newspaper printed in the county, such notice to be published once a week for three successive weeks, and by posting notice of such sale in at least three public places in the county. Notice posted and published shall be signed by the county clerk and one notice may include a list of all lands to be offered for sale at one time. It shall describe the lands to be sold, Sale of tax lands.

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the appraised value of same and the time and place of sale, and no sale shall be made for a price less than the fair market value thereof, as determined and fixed by the board of county commissioners prior to making the order of sale, which value shall be stated in the notice of sale.

Private sale.

In the event any of said lands are not sold at such public sale, the county commissioners may at any time either again appraise, advertise and offer the same at public auction or sell the same at private sale at the best price obtainable, but at not less than ninety per cent of the last appraised value, and on such terms as may be agreed upon, provided the rate of interest on deferred payments shall not exceed four per cent per annum, and provided further that the terms other than price, as to each class of land, grazing, farming and irrigated, shall be uniform in each county.

Sale on terms.

If a sale is made on terms, the chairman of the board of county commissioners shall execute a contract in behalf of the county, and upon the payment of the full purchase price, together with all interest and taxes, the chairman of the board of county commissioners shall execute a deed to the purchaser, or his assignee conveying the title of the county in and to the lands so sold.

Taxation of lands sold.

On the first Monday in March following the execution of such contract, the lands shall be subject to taxation in the name of the purchaser, or his assignee, and in the event the taxes are not paid, and the same become delinquent, said contract shall stand cancelled and all payments theretofore made shall be taken, treated and regarded as rent for said property.

Lease of lands.

Whenever any of such lands have been offered for sale at public auction and not sold, the county commissioners may, if deemed for the best interest of the county, lease said lands upon the best terms obtainable, provided that such lease, *when for farming lands, shall not extend over a period of three years; for grazing lands, it shall not* extend over a period longer than five years, except of lands to be within a legally created *or thereafter to be created* grazing district, when such lease may run for a period of not to exceed ten years, *provided lands leased for grazing purposes may be subject to sale, at the discretion of the board of county commissioners, during the term of the lease, and leases shall be subject to all rules and regulations*

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relative to land use policies or regulations to best advance public benefit and welfare that may be adopted by the board of county commissioners, with the advice of the county agricultural planning committee, and further provided that the lease rentals may vary according to the carrying capacity of the lands leased as determined by the board of county commissioners.

The county commissioners may also, after any of said lands have been offered for sale and not sold, when it is deemed for the best interests of the county, exchange said lands for other lands of equal value where the effect of such exchange would be to acquire land which could be leased or sold to better advantage."

Exchange of unsold land.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed, including only so much of Chapter 152 of the laws of 1937 as is in direct conflict herewith.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 17, 1939.

CHAPTER 194

An Act Providing for the Adoption of the Provisions and Regulations of the "National Electrical Safety Code" as Approved by the American Engineering Standards Committee, November 15, 1927, and All Revisions Thereof Now or Hereafter Approved and Adopted by the American Engineering Standards Committee in the Construction of All Rural Electrification Administration Projects and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That from and after the passage of this act all electrical construction *conducted, and to be operated by any rural electrification association and constructed, and to be operated in pursuance of the authority of the rural electrification administration of the federal government,* within the State of Montana shall be in conformity with the rules and regulations set forth in the national elec-

Electrical construction operated by rural electrification associations must conform to national electrical safety code.

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trical safety code approved by the American engineering standards committee as published by the department of commerce of the United States and any and all revisions thereof as the same may exist from time to time.

Code shall supersede conflicting provisions of Ch. 245, R. C. 1935.

Section 2. That the provisions of the national electrical safety code, as designated in Section 1 hereof, wherever the same may be in conflict with or in any manner contravene the provisions of Chapter 245 of the Revised Codes of Montana, 1935, shall be deemed and construed as superseding, amending and modifying the provisions of Chapter 245 insofar as the provisions thereof conflict with the provisions of the national electrical safety code; provided that the provisions of this Section shall apply only to electrical construction conducted and operated in pursuance of the authority of the rural electrification administration of the federal government.

Penalty.

Section 3. **Violation of Act a Misdemeanor—Penalty.** Every person, firm or corporation which shall violate any provisions of this act shall be guilty of a misdemeanor.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 195

An Act to Define Noxious Weeds and Noxious Weed Seed and Declaring Them a Nuisance; to Authorize the Formation and Creation of Noxious Weed Control and Noxious Weed Seed Extermination Districts, Providing for the Management Thereof, the Control of Work Therein, the Determination of and Levying of Assessments Therein; Authorizing a Quarantine Against Introduction of Noxious Weeds and Weed Seed Into the State of Montana and Into Any County Thereof; Providing Penalties for Violations of the Provisions of This Act; Authorizing the Cooperation of the Board of County Commissioners With Any State or Federal Aid Program in Furthering the Operation of This

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Act; and Repealing Sections 4506, 4507, 4508, 4509, 4510, 4511, 4512, 4513, 4513.1 and 4513.2 of the Revised Codes of Montana, 1935, as Amended by Chapter 41 of the Session Laws of 1937, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.**

Definitions.

(a) **Noxious Weeds.** The Canadian thistle (cirsium arvense (L.) Scop.), wild morning glory or bindweed (convolvulus arvensis L.) white top (lepidium draba L.), leafy spurge (euphorbia virgata waldst. and kit.), Russian knapweed (centaurea pieris pallas.), and such other weed or weeds as may be defined and designated as a noxious weed by the board of county commissioners of each county, is hereby declared to be a noxious weed and a common nuisance. Such noxious weeds are hereinafter referred to as "weeds."

Noxious weeds.

"Weeds."

(b) **Noxious Weed Seed.** The seed of any noxious weed is hereby declared a common nuisance. Such noxious weed seed is hereinafter referred to as "seed" or "seeds."

"Seed."

(c) **Weed Control and Weed Seed Extermination Districts.** The area included within the boundaries of any organized weed control and weed seed extermination district shall hereinafter be referred to as the "district."

"District."

(d) **Weed Control and Weed Seed Extermination District Supervisors.** The three persons appointed by the board of county commissioners to supervise the weed control and weed seed extermination within the county shall be referred to as the "supervisors".

"Supervisors."

(e) **The Board of County Commissioners.** The board of county commissioners shall be referred to as the "commissioners".

"Commissioners."

Section 2. **Growth of Noxious Weeds Unlawful.** It shall be unlawful to permit any noxious weed, as named in this act, or designated by the board of county commissioners of the respective county, to go to seed on any lands within the area of any district. This Section shall apply to all persons, co-partnerships, corporations or companies owning, occupying or controlling lands,

Growth of noxious weeds unlawful.

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easements, or right-of-ways, as well as all county, state and federal owned and controlled highways, and also all drainage and irrigation ditches, spoil banks, barrow pits and right-of-ways for canals and laterals within the district.

Quarantine against introduction of noxious weed seed.

Section 3. **Quarantine Against Introduction of Noxious Weed Seed and Farm Products Conveying the Same.** Whenever the supervisors have reason to believe that farm products, including seed, which will cause the spread of noxious weeds, are about to be introduced into the county, the said supervisors shall declare an embargo against the importation of such farm products and seeds into such county.

Quarantine against introduction from other states.

Section 4. **Quarantine Against Introduction of Noxious Weed Seed From Other States.** Whenever the governor of the State has good reason to believe that shipments of grain, plants, seed, tubers, nursery stock or fruit containing noxious week seed or plants dangerous or inimical to the horticultural or agricultural industries are about to be introduced into the State, he shall, by proclamation, declare an embargo against the importation or shipment of any such grain, plants, tubers, nursery stock, seed or fruit into the State except under such restrictions as he, after consulting the commissioner of agriculture, may deem proper.

Creation of weed control and weed seed extermination districts.

Section 5. **Creation of Weed Control and Weed Seed Extermination Districts.** When a petition signed by twenty-five per cent (25%) of the freeholders of any proposed district, outside of any incorporated town or city of the county, is presented to the commissioners of such county, asking for the creation of a weed control and weed seed extermination district, the commissioners shall set a day for a hearing of the same and order notice thereof to be given to all persons interested, as is hereinafter provided. Said petition shall set forth the boundaries of the district and the legal description of each piece of land within the same, together with the record owner thereof.

Notice of hearing.

Section 6. **Notice of Hearing.** Notice of such hearing shall be mailed, by registered letter, to each landowner within the proposed district, at his last known address. The address of the landowner as set forth in the conveyance by which he secured title, provided such conveyance

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contains his address, shall be deemed his last known address, unless by affidavit it shall appear that the landowner has another address. If no known address appears, service shall be deemed complete upon publication as hereinafter provided for. Such notice shall also be posted in three public places within the district and be published in the newspaper published nearest the district for two weekly issues, and such posting, mailing and first publication shall be at least ten (10) days before the date of hearing.

Hearing on petition.

Section 7. **Hearing on Petition.** At such a hearing, any landowner may file his written objections to the creation of the district. If landowners, owning fifty-one per cent (51%) of the agricultural land within the district, shall file written consent for the creation of the district, the commissioners shall proceed to hear the said petition, and if, in their judgment, the creation of the said district is desirable and for the best interest of all persons interested, they shall, by an order duly made and entered on their minutes, declare the district created, setting forth the name and boundaries of the district and the land contained therein.

Districts within corporate limits of cities and towns.

Section 8. **Weed Control and Weed Seed Extermination Districts Within Corporate Limits of Cities and Towns.** Twenty-five landowners within the incorporated limits of any city or town may present a like petition to the council of said city or town, and the said city or town council shall have authority to create weed control and weed seed extermination districts within the city or town in like manner as herein provided for in the creation of weed control and weed seed extermination districts within the county.

Appointment of supervisors.

Section 9. **Appointment of Weed Control and Weed Seed Extermination Supervisors—Term of Office—Compensation.** The commissioners shall have authority to appoint a board of weed control and weed seed extermination supervisors, consisting of three members, who shall be appointed annually for each county in which a city, town, or county weed control and weed seed extermination district is created. Said supervisors shall be public officers, and they shall organize by choosing a chairman and a secretary. The secretary may or may not be a member of the board. All such supervisors shall serve

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Compensation.

without pay, except such expenses for mileage and per diem as shall be fixed by the commissioners. The supervisors may employ suitable and competent persons as assistants and employees as may be necessary and provide for their compensation. It shall be the duties of said supervisors to supervise within the districts of their county the extermination or control program as promulgated by the commissioners.

Duties.

Section 10. **Inspection of Premises—Notice to Occupant—Possession.** Where complaint has been made and the supervisors have reason to believe that noxious weeds described in this act are present upon the lands within their jurisdiction, in violation of the law, they shall forthwith inspect the premises, and if such weeds are found, they shall cause written notice to be served on the person permitting the same, directing him to comply with the provisions of this act, within a period of time specified in said notice.

Inspection of premises.

Notice to occupant.

Section 11. **Destruction of Weeds by Supervisors if Notice Not Observed—Collection of Cost.** If the notice be not obeyed within the time specified in the notice, the supervisors shall forthwith destroy and exterminate such weeds and make report thereof to the county clerk, with a verified, itemized account of their services, and expenses in so doing, and a description of the lands involved, and shall include in said account the necessary cost and expense of chemicals, man hours of labor and equipment employed, at a rate paid, in the immediate vicinity, for farm labor per day and for equipment used for an eight hour day. Such expenses shall be paid by the county out of the "noxious weed fund", and unless the sum, to be repaid by the owner or occupant, is not repaid before October 15th next ensuing, the county clerk shall certify the amount thereof, with the description of the premises to be charged, and shall extend the same to the assessment list of the said county, as a special tax on said land, but if the land for any reason be exempt from general taxation, the amount of such charge may be recovered by direct claim against the State or the county for state or county owned lands. When such taxes are collected, they shall be credited to the "noxious weed fund". In destroying and exterminating such weeds, the supervisors are authorized to take possession and control of any infested tract of land, within their dis-

Destruction of weeds by supervisors.

Collection of cost.

Authority of supervisors.

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tricts, together with any fences or ditches thereon, and to move any fence or ditch where necessary in order to better conduct the control work and process of extermination as may be necessary. If any fence or ditch be moved, the same shall be replaced upon completion of the extermination work, if requested by the landowner.

Destruction of weeds mingled with crop.

Section 12. **Destruction of Weeds Mingled With Crop.** When noxious weeds are intermixed with a growing crop within the district, so that the field is a menace to the district, the supervisors shall have power to order the destruction of the same or such parts thereof as may be necessary. The supervisors may go upon the land infested with the noxious weeds for any purpose necessary to such enforcement, provided, however, that it shall be the duty of the supervisors to confer with the commissioners as a board of arbitration, who, when they deem it proper, may extend for one year the order for destruction of the crop containing the noxious weeds.

Creation of noxious weed fund by county commissioners.

Section 13. **Creation of Noxious Weed Fund by County Commissioners—Expenditure Thereof.** The board of county commissioners of any county in this State may create a noxious weed control and weed seed extermination fund, either by appropriating money from the general fund of the county, or at any time fixed by law for levy and assessment of taxes, levy a tax not exceeding one mill on the dollar of total taxable valuation in such county, the proceeds of which shall be used solely for the purpose of promoting the control of noxious weeds or extermination of weed seed in said county and shall be designated the "noxious weed fund". This fund shall be kept separate and distinct by the county treasurer, and shall be expended by the commissioners at such time, and such manner, as is by said supervisors deemed best to secure the control and extermination of noxious weeds and weed seed. Warrants upon such fund may be drawn by the supervisors and countersigned by the commissioners.

Furnishing of materials to land owners.

Section 14. **Furnishing of Materials.** If any landowner desires to control the weeds and exterminate the weed seed on his own lands, in accordance with the notice of the supervisors, he may make application to the supervisors for the necessary chemicals, equipment and material necessary to enable him to control the weeds

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and exterminate the weed seed. Upon such application the supervisors shall certify to the commissioners the amount of such chemicals, equipment and material as they deem necessary, and the commissioners shall thereupon cause to be furnished to such landowner such chemicals, equipment and material, and the same shall be charged against the said landowner and his land in the manner hereinafter provided and collected as is provided for in this act. Such chemicals and material shall be paid for out of the "noxious weed fund".

Commissioners to control weeds and exterminate weeds on highways.

Section 15. **County Commissioners to Control Weeds and to Exterminate Weed Seed on Public Highways and County Owned Lands in the District.** It shall be the duty of the commissioners to control noxious weeds and exterminate noxious weed seed on the highways and county owned land within the confines of the district. The total cost of such control and extermination shall be paid from the "noxious weed fund".

Commissioners to determine cost.

Section 16. **Commissioners Shall Determine Cost of Control and Extermination and Fix the Amount to Be Paid From the Noxious Weed Fund.** The commissioners shall determine and fix the cost of the control of noxious weeds and of extermination of noxious weed seed, whether the same be performed by the individual landowners or by the supervisors. In cases where the landowner controls the weeds and exterminates the weed seed, he shall present to the commissioners a duly verified claim for one-third of such cost, and when the same has been approved by the supervisors and commissioners it shall be paid to such landowner out of the "noxious weed fund". When the supervisors do the control and extermination provided for herein, one-third of the cost thereof shall be paid out of the "noxious weed fund", and the remaining two-thirds shall be charged against the land upon which weed control and extermination was had, and such two-thirds shall be repaid or collected in the manner hereinbefore provided for.

Part payable from noxious weed fund.

Cooperation with other programs.

Section 17. **Cooperation With Other Programs.** The commissioners are empowered to cooperate with any state or federal aid program that becomes available. Under such a plan of cooperation the direction of the program shall be under the direct supervision of the commissioners of the county in which the program operates. Any finan-

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cial aid received from the federal government in support of noxious weed control and noxious weed seed extermination shall be applied upon the landowner's part of the cost of control and extermination, or in case the landowner has paid his part of the cost, then his portion of such federal aid shall be paid to such landowner.

Section 18. **Penalty for Violation of Act.** Any person who in any manner interferes with the weed control commissioners, weed supervisor or his deputies and employees in carrying out the provisions of this act, or refuses to obey an order of the supervisors, shall be guilty of a misdemeanor and upon conviction thereof, he shall be fined not to exceed a sum of one hundred dollars ($100.00). All fines, bonds and penalties collected under the provisions of this act shall be paid to the county treasurer of each county, and by him placed to the credit of the fund to be known as the "noxious weed fund." Penalty.

Section 19. Sections 4506, 4507, 4508, 4509, 4510, 4511, 4512, 4513, 4513.1, 4513.2, and all acts and parts of acts, in conflict herewith, are hereby repealed. Repealing clause.

Section 20. Should any section or clause of this act be found invalid, such decision shall only apply to the section or clause so found to be invalid, and shall not invalidate the entire act. Separability of act.

Section 21. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 17, 1939.

CHAPTER 196

An Act to Amend Section 9632 of the Revised Codes of Montana, 1935, as Amended by Chapter 34 of the Session Laws of the State of Montana, 1937, Relating to the Time for Appearance of Defendant and to Entry of Judgment in Justice of the Peace Courts When Defendant Fails to Appear and Answer or Demur.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 9632 of the Revised Codes of Montana, 1935, as amended by Chapter 34, of the Session Sec. 9632, R. C. 1935, amended.

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Laws of the twenty-fifth legislative assembly of the State of Montana, be, and the same is hereby amended to read as follows:

Time for appearance of defendant.

"Section 9632. **Time for Appearance of Defendant.** The time specified in the summons for the appearance of the defendant must be as follows:

1. If an order of arrest be endorsed upon the summons, forthwith.

2. In all other cases the summons shall provide that the defendant *shall answer, and if such answer be in writing file the same and* serve a copy thereof upon the plaintiff or his attorney, within six days after service of this summons, exclusive of the day of service; and in case of his failure to appear or answer, judgment will be taken against him by default for the relief demanded in the complaint."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 197

An Act to Amend Section 10921 of the Revised Codes of Montana, 1935, Relating to Making Arrests, Seizure or Levy Upon Property, or Dispossession of Lands, Without Regular Process or Legal Authority, by Adding Thereto A Provision Prohibiting the Issuance by Justice of the Peace of Writs or Process Signed in Blank and Delivery of the Same to Any Person or Corporation, With the Intent That They May Fill in the Blanks and Cause Service Thereof or Levy Upon and Seizure of Property Thereunder, and Providing a Penalty Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 10921, R. C. 1935, amended.

Section 1. That Section 10921 of the Revised Codes of Montana, 1935, be, and the same is hereby, amended to read as follows:

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"Section 10921. **Making Arrests, Seizure or Levy Upon Property, Dispossession of Lands Without Lawful Authority, Issuance by Justice of the Peace of Writs or Process Signed in Blank.** Every public officer, or person pretending to be a public officer, who, under the pretense or color of any process or other legal authority, arrests any person, or detains him against his will, or seizes or levies upon any property, or dispossesses any one of his lands or tenements, without a regular process or lawful authority therefor, is guilty of a misdemeanor. *And any justice of the peace who furnishes or causes to be furnished to any person or corporation engaged in the collection business or to any other person or corporation, a summons or writ of attachment or both, or a supply of summonses or writs of attachments or both, signed by such justice of the peace in blank, and not then signed or issued by him in any suit then filed or pending before him, or who so furnishes or causes to be furnished to any such person or corporation any writ of execution or supply of writs of execution signed in blank, and with the intent and purpose that any such summons or writ of attachment may, at the time of signing and delivery thereof, or thereafter, be used by such person or corporation by themselves dating the same, inserting the name of a party plaintiff and defendant and otherwise completing the same and causing service of any such summons to be made or levy upon and seizure of property to be made under any such writ of attachment, or with the intent and purpose that any such writ of execution so signed and delivered in blank may then or thereafter be utilized by such person or corporation by themselves dating the same and entitling the same in any cause of action in which said justice of the peace has theretofore or may thereafter render judgment, shall be guilty of a misdemeanor and on conviction thereof shall forfeit his office and shall be disqualified from thereafter holding the office of justice of the peace.*"

Arrest or seizure without lawful authority, a misdemeanor.

Issuance of summons or writ of attachment by a justice of the peace, signed in blank, a misdemeanor.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 17, 1939.

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CHAPTER 198

An Act Regulating the Speed of Motor Vehicles on the Highways of the State of Montana and Fixing Exceptions Thereto for the Purposes of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Speed of motor vehicle restricted.

Section 1. No person shall drive a motor vehicle on a public highway of this State at a speed greater than is reasonable and prudent under conditions then existing.

Limits for certain trucks.

Section 2. Maximum speed limits for trucks of more than two (2) ton capacity shall be forty-five (45) miles per hour.

Supervisor of highway patrol authorized to establish limited speed zones.

Section 3. The supervisor of the highway patrol is authorized and empowered to determine and establish on any public highway of the State of Montana, or any portion thereof, limited speed zones, which speed limits shall constitute the maximum speed at which any person may drive or operate any vehicle upon such zoned highway, or portion thereof so zoned, and on which the maximum speed permissible in said zone has been conspicuously posted. Any speed in excess of the maximum speed posted shall be prima facie evidence that the speed is not reasonable or prudent and that it is reckless driving by the driver of the vehicle.

Section 4. Such zones are limited and classified as follows:

Classification of speed zones.

A. Zone 1. The maximum permissible speed shall not exceed twenty (20) miles per hour.

B. Zone 2. The maximum permissible speed shall not exceed thirty (30) miles per hour.

C. Zone 3. The maximum permissible speed shall not exceed forty-five (45) miles per hour.

D. Zone 4. The maximum permissible speed shall not exceed that permitted in the three preceding zones, and shall be a reasonable rate of speed; provided that during the hours when lights on vehicles are required, the maximum rate of speed shall be fifty-five (55) miles per hour.

Night-time driving.

Section 5. Regardless of any of the other provisions of this act, it shall be prima facie evidence of reckless

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driving for any person to operate any vehicle anywhere in Montana during the night-time at a speed in excess of fifty-five (55) miles per hour.

Section 6. Every person convicted of reckless driving shall be punished upon a first conviction by imprisonment for a period of not less than ten (10) days nor more than ninety (90) days, or by a fine of not more than one hundred dollars ($100.00), and on a second or subsequent conviction may, in the discretion of the court, be punished by imprisonment for not less than thirty (30) days nor more than ninety (90) days, or by a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00). Penalties.

Section 7. Where no special hazard exists on any section of highway outside of a municipality, which section is not zoned and posted as hereinbefore provided, the speed limits specified in zone 4 shall apply and any speed in excess of such limits shall be prima facie evidence that such speed is unreasonable and imprudent, and of reckless driving by the driver of the vehicle. Limitation in zone 4, applicable, when.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 17, 1939.

CHAPTER 199

An Act Prescribing the Hours of Labor for Persons Employed in or About Restaurants, Cafes, Lunch Counters and Other Commercial Eating Establishments; Providing Exemptions Therefrom; Providing Penalties for a Violation Thereof and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. A period of not more than eight (8) hours shall constitute a day's work, and a period of not to exceed forty-eight (48) hours shall constitute a week's work for persons employed in or about restaurants, cafes, lunch counters and other commercial eating establishments. Limitation of day's work and week's work in restaurants.

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Arrangement of hours of work.

The hours of work must be so arranged that persons employed in or about restaurants, cafes, lunch counters and other commercial eating establishments shall not be on duty more than eight (8) hours in the aggregate of any twelve (12) consecutive hours, such persons shall have at least twelve (12) consecutive hours off duty;

Exception.

provided, however, that the provisions of this act shall not apply to any person or persons working more than eight (8) hours during any twelve (12) consecutive hours, or more than forty-eight (48) hours during any week for the purpose of relieving another employee in case of sickness, or where the health of the public is imperilled, or where life and property is in imminent danger, or for other unforeseen cause or causes.

Section 2. Any person, corporation, manager, agent or employer who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less

Penalty.

than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00), or by imprisonment in the county jail for not less than fifteen (15) days nor more than sixty (60) days, or by both such fine and imprisonment.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 200

An Act to Amend Section 2317 and Section 2323, Revised Codes of Montana of 1935, Relating to Licensing Persons Engaged in the Business of Coal Mining, Fixing the Fees Therefor, and Providing for Enforcement Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2317, R. C. 1935, amended.

Section 1. That Section 2317, Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

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"Section 2317. **Coal Mines License Tax—Amount—Exceptions.** Every person engaged in or carrying on the business of coal mining, or engaged in the business of working or operating any mine or mining property, in the State of Montana, from which marketable or merchantable coal of any kind is mined, extracted or produced, whether such person shall carry on such business or engage in such work or operations as owner, lessee, trustee, possessor, receiver, or in any other capacity, must for the year 1921, and each year thereafter, when engaged in or carrying on such business, work or operations, pay to the state treasurer, for the exclusive use and benefit of the State of Montana, a license tax for engaging in and carrying on such business, work and operations, in an amount equal to five cents per ton for each and every ton *in excess of fifty thousand tons* of marketable or merchantable coal mined, extracted or produced by such person in the State of Montana and shipped by such person during such year, or used by such person for any purpose except in connection with the operating of the mine or mining property from which the same was mined, extracted or produced, or delivered by such person to any other person for shipment, sale or use by such other person; provided, however, that nothing in this act shall be construed as requiring laborers or employees, hired or employed, by any person to mine coal, or to work in or about, or in connection with any coal mine or coal property or business, to pay such license taxes, nor shall any work required to be done in prospecting for, or in developing, or in opening up any coal mine or mining property, be deemed to be the carrying on of a coal mining business, or the engaging in the business of working or operating of a coal mine; provided, further, that if during any such work of developing or opening up any coal mine or coal mining property, any marketable or merchantable coal shall be mined, extracted or produced and sold, then the same shall be deemed the carrying on of a coal mining business and the engaging in the business of working and operating a coal mine."

Coal mines license tax.

Amount.

Exceptions.

Section 2. That Section 2323, Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 2323, R. C. 1935, amended.

"Section 2323. **Procedure to Determine Tax—Penalty—Tax Lien.** If any person shall fail, neglect or refuse to file any statement required by Section 2321 of this

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code, or shall fail to make payment of such license tax within the time therein required, the state board of equalization, shall, immediately after such time has expired, proceed to inform itself, as best it may, regarding the number of tons of marketable or merchantable coal mined, extracted or produced by such person, during such quarter and shipped or used by such person, or delivered by such person to any other person for shipment, sale or use by such other person, and shall determine and fix the amount of the license taxes due to the State from such person for such quarter, and shall make out a statement in *triplicate*, showing the same, and shall add to the amount of such license taxes, *ten per centum (10%)* thereof as a penalty, *and one of such statements shall be filed in the office of the county clerk and recorder of the county in which the coal was produced* and one of such statements delivered to the state treasurer, who shall proceed to collect the amount of such license taxes, with the penalty added thereto and interest on the whole thereof, at the rate of eight per centum (8%) per annum from the date of making of such statement by the state board of equalization until paid. Upon request of the state treasurer, it shall be the duty of the attorney general or any county attorney to commence, and prosecute to final determination in any court of competent jurisdiction, an action at law to collect the same.

Procedure to determine tax.

Penalty.

Interest.

"The license tax assessed against any person under this act, together with penalties and interest thereon, shall be a lien upon any and all property owned by such person within this State and upon the mine from which the coal was produced, which lien shall attach on the date when the license tax is certified to the state treasurer by the state board of equalization and such lien may be enforced in the name of the State of Montana, in the same manner as other liens are enforced at law."

Tax lien.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 17, 1939.

CHAPTER 201

An Act to Amend Section 2222 of the Revised Codes of Montana, 1935, Providing for the Refund of Taxes,

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Penalties and Costs Paid More Than Once or Erroneously or Illegally Collected.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2222, Revised Codes of Montana of 1935, be, and is hereby amended to read as follows: Sec. 2222, R. C. 1935, amended.

"Section 2222. *Taxes, Etc., Illegally Collected to Be Refunded.* Any taxes, percentum and costs, heretofore or hereafter, paid more than once or erroneously or illegally collected, may, by order of the board of county commissioners, be refunded by the county treasurer. *Whenever any payment shall have been made to the state treasurer, as provided in Section 2255 of this code, and it shall afterwards appear to the satisfaction of the board of county commissioners that a portion of the money so paid should be refunded as herein provided, said board of county commissioners may refund such portion of said taxes, penalties and costs so paid to the state treasurer, and upon the rendering of the report required by Section 2257 of this code, the county clerk shall certify to the state auditor, in such form as the state auditor may prescribe, all amounts so refunded, and in the next settlement of the county treasurer with the state, the state auditor shall give the county treasurer credit for the state's portion of the amounts so refunded.* Taxes illegally collected, to be refunded.

"When any part of the taxes, penalties or costs hereinbefore referred to were levied in behalf of any school district or municipal or other public corporation, and collected by the county treasurer, the same may be refunded upon the order of the board of county commissioners.

"No order for the refund of any taxes, percentum or costs under this Section shall be made except upon a claim therefor, verified by the person who has paid such tax, penalty or costs, or his guardian, or in case of his death by his executor or administrator, which claim must be filed within two years after the date when the second half of such taxes would have become delinquent if the same had not been paid. Claim for refund. Time for filing.

"All refunds ordered to be paid by the board of county commissioners shall be paid by the county treasurer out of the general fund of the county and the county treasurer Paid from general fund.

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shall then make such transfers from other county funds and from state, school district, and other public corporation funds in his possession as may be necessary to reimburse the county general fund for payments made therefrom on account of such other funds.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed, but none of the provisions of this act shall be deemed or construed to be in conflict with the provisions of Sections 2268 to 2272, inclusive, of this code, but this act and the provisions of such sections shall provide and afford concurrent remedies.

Construction.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 202

An Act Amending Paragraph 7, of Section 1, of Chapter 87, of the Laws of the Twenty-fifth Legislative Assembly of 1937, Relating to the Definition of ''Prior Service''; Amending Paragraph 3(a), of Section 8, of Chapter 87, of the Laws of the Twenty-fifth Legislative Assembly of 1937, Relating to the ''Pension Accumulation Fund'' and Providing for an Appropriation Therefor; Amending Paragraph 5(c), of Section 8, of Chapter 87, of the Laws of the Twenty-fifth Legislative Assembly of 1937, Relating to the ''Expense Fund'', and Providing an Appropriation Therefor; Amending Paragraph (b), of Section 10, of Chapter 87, of the Laws of the Twenty-fifth Legislative Assembly of 1937, Relating to the ''Collection of Contributions by Members'' and Providing Penalties.

Be it enacted by the Legislative Assembly of the State of Montana:

Par. 7, Sec. 1, Ch. 87, laws of 1937, amended.

Section 1. That Paragraph 7 of Section 1, of Chapter 87, of the laws of the twenty-fifth legislative assembly of 1937, be, and the same is hereby amended to read as follows:

"Prior service" defined.

''7. 'Prior service' shall mean service as a 'teacher', or in a similar capacity outside the State, rendered prior to the date of establishment of the system for which credit is allowable as provided in Section 5 of this act; *provided,*

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further, that any teacher, mustered into or serving in the military forces of the United States government, during the period of war, shall receive 'prior service credit' for such period of service.''

Par. 3(a), Sec. 8, Ch. 87, laws of 1937, amended.

Section 2. That Paragraph 3 (a) of Section 8, of Chapter 87, of the laws of the Twenty-fifth legislative assembly of 1937, relating to the ''pension accumulation fund'' be, and the same is hereby amended to read as follows:

Pension accumulation fund.

''(a) On account of each member there shall be paid annually beginning with the first day of July, nineteen hundred and thirty-seven, into the pension accumulation fund by the State of Montana, a certain percentage of the earnable compensation of each member of the retirement system for the preceding school year to be known as the 'normal contribution' and a further percentage known as the 'deficiency contribution'. The rates per centum of such contributions shall be fixed on the basis of the liabilities of the retirement system as shown by actuarial valuation. Provided that until such time as the legislative assembly shall provide adequate funds for the establishment of such reserves as are set up in this act, such parts of this act as deal with the reserves to be built up by contributions from the State shall be inoperative. Until such time as stated above the State shall pay to the teachers retired under this act the amounts specified therein, provided, however, that for each of the years beginning *July 1, 1939, and ending June 30, 1940, and beginning July 1, 1940, and ending June 30, 1941, the State's contribution shall be one hundred thousand dollars ($100,000.00) for each fiscal year; and which sum is hereby appropriated from the general fund of the State of Montana for such purpose;* provided, further, that the retirement board shall pay to the teachers qualifying under this act their proportionate share of the amounts specified herein.''

"Normal contribution."

"Deficiency contribution."

Appropriation from general fund of state.

Par. 5(c), Sec. 8, Ch. 87, laws of 1937, amended.

Section 3. That paragraph 5 (c) of Section 8, of Chapter 87, of the laws of the Twenty-fifth legislative assembly of 1937, relating to ''expense fund'' be, and the same is hereby amended to read as follows:

Part of expense payable by state.

''(c) The expense not payable by the contribution of members and amounts transferred from the annuity savings fund as provided under Paragraph (b) of this Subsection shall be contributed and paid by the State of Montana, provided that for the year beginning *July 1,*

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Appropriation for administration.

1939, and ending June 30, 1940, there is hereby appropriated out of the general fund for administration four thousand dollars ($4,000.00); and for the year beginning July 1, 1940, and ending June 30, 1941, there is hereby appropriated out of the general fund for administration four thousand dollars ($4,000.00).''

Par. (b), Sec. 10, Ch. 87, laws of 1937, amended.

Section 4. That Paragraph (b) of Section 10, of Chapter 87, of the laws of the twenty-fifth legislative assembly of 1937, be, and the same is hereby amended to read as follows:

Monthly warrants to be transmitted by employers.

"(b) Each employer shall transmit monthly a warrant for the total amount of such deduction to the secretary of the retirement board. The secretary of the retirement board after making records of all such warrants shall transmit them to the state treasurer who shall collect the same; *any employer who fails to transmit such warrants shall be guilty of a misdemeanor, and upon conviction thereof, shall*

Penalty.

be punished by a fine of not less than ten dollars ($10.00), nor more than one hundred dollars ($100.00) for each violation.''

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 203

An Act Amending Sections 8883, 8885, 8886, 8887, 8889, 8890, 8893, 8894 and 8895, Revised Codes of Montana, 1935, Defining Juries and the Qualifications of Jurors; Making Women Eligible for Jury Service; Providing for Certain Exemptions From Jury Service; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 8883, R. C. 1935, amended.

Section 1. That Section 8883, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

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"Section 8883. **Jury Defined.** A jury is a body of *persons* temporarily selected from the citizens of a particular district, and invested with power to present or indict a person for a public offense, or to try a question of fact." Jury defined.

Section 2. That Section 8885, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 8885, R. C. 1935, amended.

"Section 8885. **Grand Jury Defined.** A grand jury is a body of *persons,* seven in number, returned in pursuance of law, from the citizens of a county, before a court of competent jurisdiction, and sworn to inquire of public offenses committed or triable within the county." Grand jury defined.

Section 3. That Section 8886, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 8886, R. C. 1935, amended.

"Section 8886. **Trial Jury Defined.** A trial jury is a body of *persons* returned from the citizens of a particular district before a court or officer of competent jurisdiction, and sworn to try and determine, by verdict, a question of fact." Trial by jury defined.

Section 4. That Section 8887, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 8887, R. C. 1935, amended.

"Section 8887. **Number of a Trial Jury.** A trial jury consists of twelve *persons;* provided, that in civil actions and cases of misdemeanor, it may consist of twelve, or any number less than twelve, upon which the parties may agree in open court." Number of a trial jury.

Section 5. That Section 8889, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 8889, R. C. 1935, amended.

"Section 8889. **Jury of Inquest Defined.** A jury of inquest is a body of *persons* summoned from the citizens of a particular district before the sheriff, coroner, or other ministerial officer, to inquire concerning particular facts." Jury of inquest defined.

Section 6. That Section 8890, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 8890, R. C. 1935, amended.

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Who competent to act as jurors.

"Section 8890. **Who Competent to Act as Juror.** A person is competent to act as a juror if:

"1. A citizen of the United States of the age of twenty-one and not more than seventy years, who shall have been a resident of the state one year, and of the county ninety days before being selected and returned.

"2. In possession of natural faculties, and of ordinary intelligence and not decrepit.

"3. Possessed of sufficient knowledge of the English language.

"4. Assessed on the last assessment roll of the county on property belonging to him *or her.*"

Sec. 8893, R. C. 1935, amended.

Section 7. That Section 8893, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Who exempt from jury duty.

"Section 8893. **Who Exempt From Jury Duty.** A person is exempt from liability to act as juror if:

"1. A judicial, civil or military officer of the United States or of this State;

"2. A person holding a county, township, or town office;

"3. An attorney-at-law in practice;

"4. A minister of the gospel, or a priest of any denomination, or editor, following his profession;

"5. A teacher in a university, college, academy or school;

"6. A practicing physician, dentist, or druggist actually engaged in the business of dispensing medicines, or a regularly licensed embalmer or undertaker;

"7. An officer, keeper or attendant of an almshouse, hospital, asylum, or other charitable institution;

"8. Engaged in the performance of duty as officer or attendant of the state prison, penitentiary, or of a county jail;

"9. An express agent, mail carrier, superintendent, employee or operator of a telegraph line doing general telegraph business in the State;

"10. An active member of the national guard of Montana, or an active member of a fire department of any city

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or town of this State. The number of firemen hereby exempted must not exceed twenty-eight, including officers for each company organized; and such members from each company must be selected from the roll of such company, according to the seniority of membership, and a list containing the names of such persons must be made out by the secretary of each company and filed with the clerk of the board of county commissioners on the first Mondays of December, March, June and September, and any failure to file the list hereby required is considered a waiver of such exemption.

"11. A superintendent on a railroad.

"12. A nurse engaged on a case or a person caring directly for one or more children.

"The court must discharge a person from serving as a trial juror, in either of the following cases:

"Where it satisfactorily appears that he *or she* is not competent; and,

"Where it satisfactorily appears that he *or she* is exempt and claims the benefit of exemption."

Sec. 8894, R. C. 1935, amended.

Section 8. That Section 8894, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Who may be excused.

"Section 8894. **Who May Be Excused.** A juror must not be excused by a court for a slight or trivial cause, or for hardship or inconvenience to his *or her* business, but only when material injury or destruction to his *or her* property, or of property entrusted to him *or her* is threatened, or when his *or her* own health, or the sickness or death of a member of his *or her* family requires his *or her* absence."

Sec. 8895, R. C. 1935, amended.

Section 9. That Section 8895, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Affidavit of claim of exemption.

"Section 8895. **Affidavit of Claim to Exemption.** If a person, exempt from liability to act as a juror, as provided in Section 8893, be summoned as a juror, he *or she* may make and transmit his *or her* affidavit to the clerk of the court for which he *or she* is summoned, stating his *or her* office, occupation or employment; and such affi-

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davit must be delivered by the clerk to the judge of the court where the name of such person is called, and if sufficient in substance, must be received as evidence of his *or her* right to exemption and as an excuse for non-attendance in person. The affidavit must then be filed by the clerk."

Construction as to "he" or "him."

Section 10. It is specifically provided that wherever the term "he" or "him" appears in any statute of the State of Montana, relative to jurors, it shall be construed as including all persons.

Effective date.

Section 11. This act shall be in full force and effect from and after January 1, 1940.

Repealing cleuse.

Section 12. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 17, 1939.

CHAPTER 204

An Act Creating a State Milk Control Board to Supervise and Regulate the Fluid Milk Industry of the State of Montana, and Defining Its Powers and Duties; Setting Forth the Rules Governing Said Board; Providing for the Licensing and Collection of License Fees From Milk Dealers, Producers, and Distributors; Defining Milk, Milk Dealers, Consumers, Producers; Producer-Distributors and Distributors, and Their Duties as Such; Authorizing the Board, Created Hereunder, to Promulgate Regulations and Rules for the Administration of Its Functions; Providing for a Review of the Board's Rulings; Fixing Penalties and Additional Remedies; Providing for Repeal of All Laws in Conflict With This Act, and Establishing the Manner of This Act's Taking Effect.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is hereby declared:

Declaration of policy relating to milk.

(a) That milk is a necessary article of food for human consumption;

(b) That the production and maintenance of an adequate supply of healthful milk of proper chemical and

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physical content, free from contamination, is vital to the public health and welfare;

(c) That the production, transportation, processing, storage, distribution and sale of milk, in the State of Montana, is an industry affecting the public health and interest;

(d) That unfair, unjust, destructive and demoralizing trade practices have been and are now being carried on in the production, transportation, processing, storage, distribution, and sale of milk, which trade practices constitute a constant menace to the health and welfare of the inhabitants of this State and tend to undermine the sanitary regulations and standards of content and purity of milk; Unfair trade practices.

(e) That health regulations alone are insufficient to prevent disturbances in the milk industry and to safeguard the consuming public from further inadequacy of a supply of this necessary commodity;

(f) That it is the policy of this State to promote, foster and encourage the intelligent production and orderly marketing of fluid milk and cream; to eliminate speculation and waste, and to make the distribution thereof between the producer and consumer as direct as can be efficiently and economically done, and to stabilize the marketing of such commodities; Policy of state.

(g) That investigations have revealed and experience has shown that, due to the nature of milk and the conditions surrounding the production and marketing of milk, and due to the vital importance of milk to the health and well being of the citizens of this State, it is necessary to invoke the police powers of the State to provide a constant supervision and regulation of the milk industry of the State to prevent the occurrence and recurrence of those unfair, unjust, destructive, demoralizing and chaotic conditions and trade practices within the industry, which have in the past affected the industry and which constantly threaten to be revived within the industry and to disrupt or destroy an adequate supply of pure and wholesome milk to the consuming public and to the citizens of this State; Police powers of state to provide supervision.

(h) That fluid milk is a perishable commodity, which is easily contaminated with harmful bacteria, which can-

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not be stored for any great length of time, which must be produced and distributed fresh daily, and the supply of which cannot be regulated from day to day, but, due to natural and seasonal conditions, must be produced on a constantly uniform and even basis;

Surplus supply admitted.

(i) That the demand for this perishable commodity fluctuates from day to day and from time to time making it necessary that the producers and distributors shall produce and carry on hand a surplus of milk in order to guarantee and insure to the consuming public an adequate supply at all times, which surplus must of necessity be converted into by-products of milk at great expense and ofttimes at a loss to the producer and distributor;

Surplus tends to lower quality.

(j) That this surplus of milk, though necessary and unavoidable, unless regulated, tends to undermine and destroy the fluid milk industry, which causes producers to relax their diligence in complying with the provisions of the health authorities and ofttimes to produce milk of an inferior and unsanitary quality;

Quality lowered unless price stabilized.

(k) That investigation and experience have further shown that, due to the nature of milk and the conditions surrounding its production and marketing, unless the producers, distributors, and others engaged in the marketing of milk are guaranteed and insured a reasonable profit on milk, both the supply and quality of milk is affected to the detriment of, and against the best interest of the citizens of this State whose health and well-being is thereby vitally affected;

(l) That, where no supervision and regulation is provided for the orderly and profitable marketing of milk, past experience has shown that the credit status of both producers and distributors of milk is adversely affected to a serious degree thereby entailing loss and hardship upon all within the community with whom these producers and distributors carry on business relations;

Law of supply and demand inadequate.

(m) That, due to the nature of milk and the conditions surrounding its production and distribution the natural law of supply and demand has been found inadequate to protect the industry in this and other states, and in the public interest it is necessary to provide state supervision and regulation of the fluid milk industry in this State.

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Section 2. **General Purpose.**

General purpose of act.

The general purpose of this law is to protect and promote public welfare and to eliminate unfair and demoralizing trade practices in the fluid milk industry. It is enacted in the exercise of the police powers of the State.

Section 3. **Definitions.** Definitions.

As used in this act, unless the context otherwise requires, "board" means the state agency created by this act, to be known as the Montana milk control board. "Board."

"Person" means any person, firm, corporation or association. "Person."

"Producer" means any person who produces milk for fluid consumption within the State, selling same at wholesale to a distributor. "Producer."

"Distributor" means any person purchasing milk and distributing same for fluid consumption within the State. Said term, however, excludes all persons purchasing milk from a dealer licensed under this act, for resale over the counter at retail, or for consumption on the premises. "Distributor."

"Producer-distributor" means any person both producing and distributing milk for fluid consumption within the State. "Producer-distributor."

"Dealer" means any producer, distributor or producer-distributor. "Dealer."

"Licensee" means any person who holds a license from the board. "Licensee."

"Association" means any organized group of dealers in a community or marketing area which has been constituted under regulations satisfactory to the board. "Association."

"Market" means any city, town, or community of the State, or two or more of the same, designated by the board as a natural marketing area. "Market."

"Milk" means fluid milk and cream sold for consumption as such. "Milk."

"Consumer" means any person or any agency, other than a dealer, who purchases milk for consumption or use. "Consumer."

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Section 4. **Milk Control Board.**

Milk control board.

There is hereby constituted a milk control board to consist of the executive officer of the Montana livestock sanitary board, as chairman, who shall serve in ex-officio capacity without compensation except for necessary expenses while engaged with the duties of the board, and four members who shall be appointed by the governor with the following qualifications: One person who is a "consumer" and who is not otherwise engaged in the milk business, one person who is a "producer" selling to a distributor, one person who is a "producer-distributor", and one person who is a "distributor". The three persons appointed from the industry shall be selected from a market or markets designated and established by the board.

Terms of appointment.

All terms of appointment shall be for a term of four years except the original appointments which shall be for terms of one, two, three and four years respectively as designated by the governor. Any vacancy shall be filled by appointment by the governor for the unexpired term. Three members of the board shall constitute a quorum for the regular transaction of business.

Compensation of appointed members.

The compensation of the appointed members of the board shall be fixed at five dollars ($5.00) per day for each day actually engaged in the official functions of the board plus subsistence and necessary traveling expenses at the rate allowed other state employees.

The board may employ necessary assistants and appoint agents and instrumentalities but all expenditure under this act shall be paid from the receipts hereunder.

Executive secretary.

The board shall have the power, and it shall be its duty to designate an executive secretary who shall serve under the direction and at the pleasure of the board and who shall have charge of the administration of the board's orders, rules and regulations, and who shall also serve as financial officer of the board and who shall be authorized to accept or receive money paid or to be paid to the board, either as license fees or fines as provided by this act. Such person shall, before he enters upon the discharge of his duties, execute and file a bond, in such amount as may be fixed by the board, as may be provided by law for public officers.

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Section 5. **General Powers of the Milk Control Board.**

General powers of milk control board.

The board is hereby vested with the powers, and it shall be its duty to supervise, regulate and control the fluid milk industry of the State of Montana, including the production, transportation, processing, storage, distribution and sale of milk in the State of Montana for consumption within the State, providing however, that nothing contained in this act shall be construed to abrogate or affect the status, force or operation of any provision of public health laws or the law under which the Montana livestock sanitary board is constituted together with the Montana livestock sanitary board regulations or county board of health regulations, or municipal ordinances for the promotion or protection of the public health, but the board shall have the power to cooperate with the state board of health, the Montana livestock sanitary board or any county or city board of health or the state department of agriculture, labor and industries in enforcing the provisions of this act. The board shall have the power to investigate all matters pertaining to the production, transportation, processing, storage, distribution and sale of milk in the State of Montana and to conduct hearings upon any subject pertinent to the administration of this act. The board shall have the power to subpoena milk dealers, their records, books and accounts and any other person from whom information may be desired or deemed necessary to carry out the purposes and intent of this act, and may issue commissions to take depositions of witnesses who are sick or absent from the State. It shall be the duty of any sheriff of any county of the State, when requested to do so by the board, to execute any summons, citations or notice which the board may cause to be issued, for which such sheriff shall be authorized to charge the same fee against the funds provided for the milk control board as he might lawfully charge for the same service of such a document if issued from any district court of the State of Montana. Any person, other than a dealer who is cited for violation of the provisions of this act, or cited to show cause why his license should not be revoked, shall receive for his attendance before the milk control board or its duly designated agent the same compensation as is provided for a witness subpoenaed to appear before the district court, which shall be charged against the funds provided for the

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operation of the milk control board. Any duly designated agent of the board may administer oath to witnesses and may conduct hearings or investigations and any such duly designated agent of the board may sign and issue subpoenas requiring witnesses to appear before him or the board, and in addition to the manner provided above for the execution of subpoenas, summons and citations issued by the milk control board to witnesses or dealers, the board, through its designated agent shall have the power to serve said subpoenas, summons or citations upon any person by sending a copy of such subpoena, summons or citation, through the United States mail, postage prepaid, which said mail shall be registered with return receipt attached and such service shall be complete when said registered mail shall be delivered to said person and such receipt returned to the board or its designated agent, signed by the person sought to be summoned, subpoenaed, or cited. Obedience to a subpoena, summons or citation, issued by the board or any person authorized and designated by the board to issue said subpoena, summons or citation, may be enforced by application to any judge of the district court of the county in which such subpoena, summons or citation was issued or to any judge of the district court of the county in which such person subpoenaed, summoned or cited resides in the same manner as is provided by law for the grand jury of a county to enforce its subpoena or summons and with the same penalty as provided therefor for the failure of any person failing or refusing to comply with such subpoena, citation or summons. The board may act as mediator or arbitrator to settle any controversy or issue pertaining to fluid milk among or between producers, distributors, producer-distributors and/or consumers.

Construction, relating to powers of board.

The operation and effect of any provision of this act, conferring a general power upon the milk control board, shall not impair or limit any specific power or powers granted to the milk control board by this act.

Section 6. **Markets.**

Markets.

The board shall exercise its powers only within and in relation to markets already designated and established or such markets as shall be established in accordance with the provisions of this act.

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Markets heretofore designated.

(a) All natural marketing areas heretofore designated as markets by the milk control board, operating under authority of any hitherto existing milk control law, shall remain as markets as designated and are hereby declared to be legally constituted markets for all purposes of this act. This act shall, immediately upon its passage, become effective in all markets which have heretofore been designated as such by any previously constituted milk control board and are functioning as such at the time of passage of this act, and all schedules, rules and regulations issued and promulgated by any previously existing milk control board in this State that at the time of passage of this act are of force and effect are hereby declared to be of force and effect and shall continue to be of force and effect until altered or rescinded in the manner provided by this act.

New markets.

(b) The board shall have power, at its discretion, to establish a new market in any natural marketing area of the State that it may designate, provided that before a designated market shall be established, a canvass shall be made by the board, of all producers, producer-distributors and distributors doing business within the designated market and who are licensed by the Montana livestock sanitary board and who have been, for not less than ninety days, actually engaged in any one of the above indicated branches of the fluid milk industry and in the event that such preliminary canvass shall make it evident to the board that a majority of all the above-designated dealers representing a majority of the fluid milk sold by all said dealers licensed by the Montana livestock sanitary board are in favor of the establishment of such proposed market, the board shall proceed toward the establishment of such market but shall be restrained therefrom until such time as it shall be made evident to the board that a majority of the above-designated dealers are favorable to the establishment of such a market.

Act applicable to new market.

This act shall become operative with respect to a newly established market when the requirements of this act for the establishment of a new market have been complied with and when the board shall duly promulgate orders and regulations governing the same, and setting forth the date at which said orders and regulations shall go into effect.

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Disestablishment of markets.

The board shall have power, at its discretion, to disestablish a market and withdraw from functioning therein, provided that before such withdrawal and disestablishment shall take place, a canvass shall be made by the board of all producers, distributors and producer-distributors licensed under this act, and in the event that such canvass shall make it evident to the board that a majority of all the above-designated dealers representing a majority of the fluid milk sold by all the above-designated dealers are opposed to such withdrawal and disestablishment, then the board shall proceed no further toward the proposed withdrawal and disestablishment of such market. But in the event that the board is not restrained, as above provided, the proposed disestablishment of said market shall take place immediately upon due promulgation of orders to that effect by the board.

Section 7. **Orders Fixing Prices and Handling Charges.**

Orders fixing prices and handling charges.

Prior to the fixing of prices in any market the board shall conduct a public hearing and admit evidence under oath relative to the matters of its inquiry, at which hearing the consuming public shall be entitled to offer evidence and be heard the same as persons engaged in the milk industry. The board shall by means of such hearing and by any other means available or from facts within its own knowledge, investigate and determine what are reasonable costs and charges for producing, hauling, handling, processing, and/or other services performed in respect to milk and what prices for milk in the several localities and markets of the State, and under varying conditions, will best protect the milk industry in the State and insure a sufficient quantity of pure and wholesome milk to adults and minors in the State, and be most in the public interest.

The board shall take into consideration the balance between production and consumption of milk, the costs of production and distribution, and the purchasing power of the public.

The board after making such investigation shall fix by official order:

Minimum prices to be paid by dealers.

(a) The minimum prices to be paid by the milk dealers to producers and others for milk. The orders of the board with respect to the minimum prices to be paid to

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producers and others shall apply to the locality or zone in which the milk is produced in respect to the market or markets in which milk so produced is sold, and may vary in different localities or zones or markets according to varying uses and different conditions. Each order fixing prices or handling charges may classify milk by forms, classes, grades or uses as the board may deem advisable and may specify the minimum prices therefor.

Minimum wholesale and retail prices.

(b) The minimum wholesale or retail prices to be charged for milk in its various grades and uses handled within the State for fluid consumption and wheresoever produced when sold by milk dealers whether licensed or unlicensed, to consumer; by stores to consumers except for consumption on the premises where sold; by milk dealers to other milk dealers.

A minimum wholesale or retail price to be charged for milk shall not be fixed higher than is necessary to cover the costs of ordinarily efficient and economical milk dealers, including a reasonable return upon necessary investment.

Revision of orders by board.

The board may, upon its own motion, or upon application in writing from any market, or from any party at interest, alter, revise or amend any official order theretofore made by the board provided that before making, revising, or amending any order fixing prices to be charged or paid for milk in any of its grades or uses, the board shall hold a public hearing on such matter in the same manner provided herein for the original fixing of prices.

Retail price of milk in quart bottles.

The retail price to be charged for milk in quart bottles shall not be more than twice the price paid by the distributor to the producer for the same grade and butterfat content of fluid milk purchased from the producer by such distributor. The board shall make adjustment from the basic rate in prices of milk sold in less quantities than quarts and at wholesale.

Section 8. **Licenses to Producers, Producer-Distributors, and Distributors.**

Licenses to producers, producer-distributors, and distributors.

In any market, where the provisions of this act apply, it shall be unlawful for any producer, producer-distributor, or distributor to produce, transport, process, store, handle, distribute, buy or sell milk unless such dealer be duly licensed as provided by this act. It shall be un-

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lawful for any such person to buy, sell, handle, process, or distribute milk which he knows or has reason to believe has been previously dealt with or handled in violation of any provision of this act. The board may decline to grant a license, or many suspend or revoke a license already granted, upon due cause and after hearing.

Section 9. **License Fees.**

License fees.

All persons required by this act to be licensed by the board shall pay a yearly license fee computed upon the following rates:

(a) A producer-distributor doing business during the twelve (12) months beginning October first and ending September thirtieth next preceding the license year, shall pay a license fee equal to the sum of one dollar ($1.00) for each six hundred (600) gallons or fraction thereof of the total volume of fluid milk by him sold.

(b) A producer, doing business during the twelve (12) months beginning October first and ending September thirtieth next preceeding the license year, shall pay a license fee equal to the sum of fifty cents ($0.50) for each six hundred (600) gallons or fraction thereof of the total volume of fluid milk by him sold.

(c) A distributor, doing business during the twelve (12) months beginning October first and ending September thirtieth next preceding the license year, shall pay a license fee equal to the sum of fifty cents ($0.50) for each six hundred (600) gallons or fraction thereof of the total volume of fluid milk by him sold, excepting that which is sold to another distributor.

(d) A producer-distributor or distributor, who deals in the handling of sweet cream but sells no fluid milk shall pay a license fee of one dollar ($1.00).

(e) Any person required by this act to be licensed who, by reason of the fact that he has not previously engaged in the business, or who, for any other reason lacks the record of a full preceding year's business upon which to compute the amount of the fee of the license to be applied for, shall submit to the board such pertinent facts, records and information as the applicant may possess and the board may require concerning the volume of the applicant's business whether past or prospective

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as the case may be, and it shall be the duty of the board, upon the basis of the information thus or otherwise acquired to determine what, in conformity with the rates heretofore established, is a just and equitable charge for the license so applied for, and the sum so determined by the board shall be the legal license fee said applicant shall pay for the license year, or for the remaining quarter or quarters of the license year then current.

(f) The board may, if it deems advisable, permit licensees to pay license fees in installments.

(g) However, it is specifically provided with respect to the license fees for the license year beginning January first, nineteen hundred and thirty-nine, as follows:

Where any licensee has paid in to the board under the provisions of the heretofore existing milk control law any license fee or fees or assessments the board shall credit to the said licensee and apply the sum or sums so paid upon the amounts due from said licensee in payment for license or licenses required under this act; and the board is hereby authorized to adjust and equalize upon an equitable basis, all adjustment of license assessment accounts requiring adjustment by reason of the repeal of the heretofore existing milk control law and the substitution therefor of the provisions of this act.

Section 10. **Application for Licenses.**

Application for licenses.

An applicant for license to operate as a producer, producer-distributor, or distributor shall file a signed application upon a blank prepared under authority of the board, and an applicant shall state such facts concerning his circumstances and the nature of the business to be conducted as in the opinion of the board are necessary for the administration of this act. Such application shall certify the applicant to be the holder of all licenses required by the Montana livestock sanitary board for the conduct of his business and such application shall be accompanied by the license fee required to be paid. The board may classify licenses and may issue licenses to dealers to carry on a certain designated kind of business only and shall require each dealer to obtain a license for each subdivision of the industry in which he may engage whether as producer, distributor, or producer-distributor and a separate license for each separate market

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in which he may do business, provided that this shall not apply to transactions among and between distributors. Application shall be duly made, within ten days after this act takes effect in any market, by all dealers engaged in business in such market.

License year.

In all markets the license year shall begin with January first of each year, but where the case applies, as in the establishment of a new market or the licensing of an applicant newly engaging in business, the license fee shall be reduced twenty-five per cent (25%) for each fully elapsed quarter of the license year prior to the issuance of said license, provided, however, that no license fee, for any period, shall be less than twenty-five per cent (25%) of the yearly total.

Section 11. **Declining, Suspending and Revoking Licenses.**

Declining, suspending and revoking licenses.

The board may decline to grant a license or may suspend or revoke a license already granted for due cause upon due notice and after hearing. The violation of any provisions of this act or of any lawful order or regulation of the board, the failure or refusal to make required statements or reports, and aggravated delinquency in the payment of license fees or any of them shall be deemed causes for which the board may, at its discretion, suspend or revoke a license, provided that no license shall be fully revoked except upon the approval of a majority of all members of the board.

Section 12. **Delinquency and Penalty.**

Delinquency and penalty.

Any person who fails to pay his license fee when due or within the time, if any, extended by the milk control board for the payment of such license fee, shall automatically owe a penalty of ten per cent (10%) of the delinquent portion of said yearly license fee. And in the event of a license being revoked for failure to pay a license fee as required in this act, the license shall not be reinstated except upon payment, in full, of the delinquent yearly fee or the delinquent portion thereof, as the case may be, plus a ten per cent (10%) penalty upon the delinquent amount.

Section 13. **Rules and Orders.**

Rules and orders.

The board may adopt and enforce all rules and all orders necessary to carry out the provisions of this act.

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Every rule or order shall be posted for public inspection in the main office of the board for thirty (30) days, and a copy filed in the office of the board, also a copy sent by registered letter to the secretary of each area, excepting an order, directed only to a person or persons named therein, which shall be served by personal delivery of a copy, or by mailing a copy, in the United States mails, with postage prepaid and properly addressed to each person to whom such order is directed, or, in the case of a corporation, to any officer or agent of the corporation upon whom a summons may be served in accordance with the provisions of the statutes of Montana. Such posting, in the main office of the board, of any rule and of any order, not required to be served as above provided, and such filing in the office of the board shall constitute due and sufficient notice to all persons affected by such a rule or order. A rule or order when duly posted and filed or served, as provided in this act, shall have the force and effect of law.

Section 14. **Rules of Fair Trade Practices.**

Rules of fair trade practices.

In addition to the general and special powers heretofore set forth, the board shall have the power to make and formulate, in any established market, reasonable rules and regulations governing fair trade practices as they pertain to the transaction of business among licensees under this act within that market.

Section 15. **Entry, Inspection and Investigation.**

Entry, inspection and investigation.

The board, or any person designated for that purpose by the board, shall have access to, and may enter, at all reasonable hours, all places where milk is produced, processed, bottled, handled or stored, or where the books, papers, records, or documents relative to such transactions are kept and shall have the power to inspect and copy the same in any place within the State, and may administer oath, and take testimony for the purpose of ascertaining facts, which, in the judgment of the board, are necessary to administer this act, but any such information so derived shall be treated as confidential by the board and shall be used by it only for the administration of this act and not for general public issue. Any member or employee of the board and any person assisting the board in the administration of this act, who shall acquire any information, while in the employ of the board, in respect

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to the transactions, property, files, records, or papers of the board, or who shall acquire any information, while in the employ of the board, in respect to the business or mechanical, chemical or other industrial processes belonging to or employed by any person and who shall divulge the same to any person other than members of the board or the superior of any such employee of the board, except when called upon to testify in any action or proceeding in any court, wherein the board is a party, shall be guilty of a misdemeanor.

Section 16. **Reports of Dealers.**

Reports of dealers.

The board shall have the power to require all persons holding licenses under it to file with the board such reports at such reasonable or regular time as the board may require, showing such person's production, sale, or distribution of milk, and any information deemed by the board necessary which pertains to the production, sale or distribution of such milk, either under oath or otherwise, as the board may direct, and failure or refusal to file such reports when directed to do so by the board or its duly designated agent shall constitute grounds for the revocation of such person's license and shall constitute a violation for which such person may be fined as hereinafter provided, one or both, at the discretion of the board.

Section 17. **Disposition of License Fees and Fines.**

Disposition of fines.

All fines assessed in any court for violation of the provisions of this act shall be paid over by the court to the milk control board or its properly designated agent.

Disposition of moneys received by board.

All moneys received by the board shall be deposited with the state treasurer and shall be placed by him in an account to be known as the milk control board fund, the state treasurer being hereby directed and authorized to keep account of said fund and pay all warrants drawn by the state auditor, pursuant to this act, out of the said fund hereby established. All such receipts, including fines assessed for violations of this act, are hereby appropriated for the purposes of this act.

Section 18. **Formation of Local Associations.**

Formation of local associations.

The board shall have power and it shall be the duty of the board to promote and foster in each established market, an association organized under regulations satis-

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factory to the board and composed of all licensees of the board and designated as the dairymen's association of such market. It shall be the function of such association to promote the mutual interests of its members and of the dairy industry, but its specific function with relation to the board shall be to provide an instrument whereby the licensees within the market may and they shall unitedly cooperate with and be of assistance to the board in determination, assembling and presentation of facts and findings relative to the costs of production, costs of distribution, and other factors upon which price schedules shall be based, and to otherwise counsel and assist the board as opportunity may afford in carrying out and enforcing the provisions of this act.

Such associations are hereby declared to be instrumentalities of the board and as such may receive as compensation for their services and as a means to their efficiency a percentage of the license fees paid to the board from the market so organized not to exceed ten per cent (10%) of the annual total of such license fees.

Section 19. **Cooperative Corporations.**

Cooperative corporations.

No provision of this act shall be deemed or construed to prevent or abridge the right of a cooperative corporation or association organized under the laws of the State of Montana and engaged in marketing or making collective sales of milk produced by its members, from blending the net proceeds of all its sales in various classes and paying its producers such blended price, with such deductions therefrom and/or differentials as may be authorized under contracts between such corporation and its members, or from making collective sales of the milk of its members and/or other producers represented by or marketing through it at a blended price based upon sales thereof in the various classes and markets, or to prevent or abridge the right of any milk dealer from contracting for his milk with such cooperative association upon such basis, or to affect or impair the contracts of any such cooperative association with its members or other producers marketing their milk through such corporation, or to impair or affect any contracts which any such cooperative association has with milk dealers or others, or affect or abridge the rights and powers of any such cooperative association conferred by the laws of the State of Montana under which it is incorporated;

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provided, that the prices to be paid for milk marketed by or through any such corporation shall be those fixed by the order of the board.

Section 20. **Hearings—Fees.**

Fee of officer serving subpoena of the board.

Each officer, other than an employee of the board, who serves any subpoena of the board, shall receive the fees legally provided for such service and each witness who appears in obedience to a subpoena, before the board or a member or its agent, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in district courts, which fees shall be audited and paid in the same manner as other expenses are audited and paid upon the presentation of proper vouchers, approved by the board.

Witness fees and mileage.

Witnesses for party other than the board.

No witnesses subpoenaed at the instance of a party other than the board, or one of its members, or its agent, shall be entitled to compensation unless the board shall certify that his or her testimony was material to the matter investigated.

Section 21. **Cooperation With Other Governmental Agencies.**

Cooperation with other governmental agencies.

In order to secure a uniform system of milk control, the board is hereby vested with power, and it shall be its duty to confer and cooperate with the legally constituted authorities of other states and of the United States, including the secretary of agriculture of the United States, and, for the foregoing purposes, the board shall have the power to conduct joint hearings, issue joint or concurrent orders and exercise all its powers under this act.

Section 22. **Violations Made Misdemeanors—Penalties.**

Violations made misdemeanors.

(a) Any person, required by this act to be licensed, who shall produce, sell, distribute, or handle milk in any way, except as a consumer, without first having obtained a license, as required of him by this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof,

Penalties.

shall be punished by a fine not exceeding six hundred dollars ($600.00). Each day's violation of this provision shall constitute a separate offense. A violation of any provision of this act or of any lawful rule of order of the board, including a failure to answer subpoena or to

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testify before the board, shall be deemed a misdemeanor punishable by a fine not exceeding six hundred dollars ($600.00), and each day during which such violation shall continue shall be deemed a separate violation.

Jurisdiction of distirct courts.

(b) The district courts shall have original jurisdiction in all criminal actions for violations of the provisions of this act, and in all civil actions for the recovery or enforcement of fines, provided for in this act, and all such actions, both criminal and civil, shall be instituted, prosecuted and tried in the district court.

Duty of county attorneys.

(c) It shall be the duty of the county attorneys and deputy county attorneys, in their respective counties, diligently to attend all inquisitions held under the provisions of this act and diligently to prosecute all violations of the laws of the State relating to the provisions of this act.

Section 23. **Constructions, Exceptions and Limitations.**

Constructions of act.

The license required by this act shall be in addition to any other license required by any statute of Montana or any municipality of the State of Montana. This act shall apply to every part of the State of Montana.

If any portion of this act is held invalid or unconstitutional such holding shall not affect the validity of the act as a whole, or any part thereof which can be given effect without the part so held to be unconstitutional or invalid.

Exception as to foreign or interstate commerce.

No provision of this act shall apply or be construed to apply to foreign or interstate commerce except insofar as the same may be effective in compliance with the United States Constitution, and with the laws of the United States. It is the intention of the legislature, however, that the instant, whenever that may be, that the handling, within the State by a dealer, of milk produced outside of the State, becomes the subject of regulation by the state in the exercise of its police powers, the provisions of this act, affecting intrastate milk, shall immediately apply and the powers conferred by this act shall attach thereto.

Section 24. **Additional Remedies.**

Additional remedies.

The board or its authorized agent may institute such action at law or in equity as may appear necessary to enforce compliance with any provision of this act or to

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enforce compliance with any order, rule or regulation, of the board pursuant to the provisions of this act or to obtain a judicial interpretation of any of the foregoing, and in addition to any other remedy, the board, after unanimous consent of all members of the board, may apply to the district court of the district wherein the action arises, for relief by injunction, mandamus or any other appropriate remedy in equity without being compelled to allege or prove that an adequate remedy at law does not otherwise exist, nor shall the board be required to give or post bond in any action to which it is a party whether upon appeal or otherwise. All legal actions may be brought by or against the board in the name of the Montana milk control board and it shall not be necessary in any action to which the board is a party that such action be brought by or against the State of Montana on relation of the Montana milk control board. The board shall have the power to institute action by its own attorney or counsellor, but it shall have the right, if it deems advisable, to call upon any county attorney to represent it in the district court, of the county in which the action is taken, or the attorney general to represent it on appeal to the supreme court of Montana, or it may associate its own counsellor with either in any court.

Section 25. **Transfer of Assets.**

Transfer of assets.

All assets, appurtenances and funds of the previously existing milk control board are hereby transferred to the herein created board.

Repealing clause.

Section 26. All acts or parts of acts in conflict herewith are hereby repealed. Statutes affected are Sections 2639.1 to Section 2640, inclusive, of the Revised Codes of Montana of 1935.

Effective date.

Section 27. This act shall take effect and be in full force immediately upon its passage and approval.

Approved March 17, 1939.

CHAPTER 205

An Act Relating to the Reinstatement of Police Officers in Cities in the State of Montana, and Providing for the Pension Benefits to Be Allowed an Officer Who Has Been Reinstated.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. An applicant for a position on the police force who has already served twenty (20) years or more in the aggregate on the police force of the city or town in the State of Montana in which he is applying for reinstatement, may make application within one (1) year from the date on which his name was removed from the active list of police officers, except that such application need not be made by officers who have heretofore been removed from said list, to the police commission of that city or town wherein he last served and his application must be considered by said police commission within thirty (30) days after receipt of said application, and said commission shall not require the appplicant to have a physical examination or other examination required of applicants for a position on the police force, and in the event that the police commission recommends the reinstatement of said applicant as a member of the police force, the probationary term required of applicants for positions shall be dispensed with as to such applicant for reinstatement, and it shall be the duty of the mayor to submit to the city council of said city at its next regular meeting, the recommendation of the police commission, and in the event that a majority of the city council vote in favor of adopting the recommendation of the commission, said applicant shall be immediately reinstated as a police officer in said city or town.

Application for reinstatement.

Physical examination not required.

Probationary term dispensed with.

Section 2. An applicant for reinstatement under the provisions of Section 1 of this act may be reinstated and passed into the reserve list of police officers so as to enjoy all the benefits, pensions and rights which accrue to police officers placed on the reserve list in said city or town; and provided further that the pension benefits to be allowed to such reinstated officer shall be computed upon the basis of his last full year of active service on said police force.

Rights, upon reinstatement.

Approved March 17, 1939.

CHAPTER 206

An Act to Amend Section 1008, Revised Codes of Montana, 1935, as Amended by Chapter 186 of the Twenty-fifth Legislative Assembly, 1937, Relating to the Power of

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School Trustees Over Property and Providing the Manner in Which Conveyance by Deed May Be Made by or to School Districts and the Right of the Board of Trustees to Remove Buildings and Improvements From Land When the Land Is No Longer Being Used for School Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1008, R. C. 1935, amended.

Section 1. That Section 1008, Revised Codes of Montana, 1935, as amended by Chapter 186 of the twenty-fifth legislative assembly, 1937, be, and the same hereby is amended to read as follows:

Power over property.

"Section 1008. **Power Over Property.** The board of trustees of each school district shall have custody of all school property belonging to the district, and shall have power in the name of the district, or in their own names as trustees of the district, to convey by deed all the interest of their district in or to any school house or lot directed to be sold as hereinafter provided, and all conveyances of real estate made to the district or to the trustees thereof shall be made to the board of trustees of the district and to their successors in office; said board, in the name of the district, shall have power to transact all business necessary for maintaining schools and protecting the rights of the district; *the trustees of the district shall have the power to lease any property belonging to the district which is not being used for school purposes.*

Owner of land to give notice of intention to repossess.

"Whenever, after the passage and approval of this act, a conditional deed has been issued to a school district for land or whenever land has been used at will or sufferance for a school site and there has been built upon such land a school house and other improvements, and said building and improvements cease to be used for the maintenance of a school in accordance with the provisions of Section 1014 and 1015, Revised Codes of Montana, 1935, as said Section 1015 was amended by Chapter 165 of the twenty-fifth legislative assembly, 1937, said board of trustees must be notified in writing by the owner or claimant of the land which has been so deeded or used by will or suffrance for a school site that he intends to repossess the land and the school trustees shall, within a period of not exceeding one (1) year, remove the building and improvements placed thereon or they shall be deemed there-

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after to have forfeited any further right to such property. Provided further that before the landowner or claimant to said land shall have the right to give the notice of removal aforesaid, the intent to abandon said land by the school district must have been expressed by the duly qualified electors in the school district in accordance with the provisions of Subdivision eight (8) of Section 1015, Revised Codes of Montana, 1935, as amended by Chapter 165 of the twenty-fifth legislative assembly, 1937.''

Proviso: electors must vote to abandon land.

Section 2. All acts and parts of acts in conflict herewith hereby are repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 17, 1939.

CHAPTER 207

An Act to Amend Section 1262.83 of the Revised Codes of the State of Montana of 1935, Relating to Purchases by Boards of Trustees of County High Schools and of School Districts for High School Purposes of Lands Contiguous to a High School Building Without Calling for a Vote of the Qualified Electors; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1262.83 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 1262.83, R. C. 1935, amended.

"Section 1262.83. **General Powers and Duties of Boards of Trustees.** The board of trustees of every county high school and of every school district maintaining a district high school shall have the power, and it shall be its duty:

General powers and duties of boards of trustees.

"1. To keep a full and permanent record of all the acts of the board and of all warrants issued against funds disbursed by it; and to pay out money only upon warrants drawn against the funds of the high school, each warrant specifying upon its face the specific purpose for which it is drawn and the disbursement represented thereby, and to keep a separate set of books for all receipts and dis-

Keep records.

Pay out money.

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bursements for high school purposes, which said books must be kept in accordance with the rules and regulations to be prescribed by the state superintendent of public instruction.

Acquire real estate.

"2. At its discretion as restricted by law to purchase, or otherwise acquire, real estate to be used as a site or sites for a high school, high school dormitories, high school gymnasiums, and other high school buildings, or for any proper high school purposes, and to sell and dispose of the same; at its discretion as restricted by law to build, purchase, or otherwise acquire, a high school building, high school dormitories, high school gymnasiums, and other buildings necessary for the high school, and to sell, move and dispose of the same; at its discretion as restricted by law to lease or contract with the board of trustees of any school district, or with any person, for suitable buildings or quarters to be used for any high school purposes or as a high school dormitory or gymnasium, and for such term not exceeding three (3) years as the board may deem for the best interests of the high school; at its discretion as restricted by law to purchase, or otherwise acquire, all necessary and appropriate equipment and supplies for the conduct, operation and administration of the high school, including high school dormitories and gymnasiums; at its discretion as restricted by law to make all contracts and to do all things necessary to carry out or execute all or any of the powers herein specified and conferred upon the board; provided, all boards of trustees of county high schools, or districts maintaining high schools, shall be prohibited from letting any contracts for building, furnishing, repairing or other work for the benefit of the school, or purchasing supplies for said school, where the amount involved is seven hundred fifty dollars ($750.00), or more, without first advertising in a newspaper published in the county for at least two (2) weeks, calling for bids to perform such work, and the board shall award the contract to the lowest responsible bidder; provided further that the board of trustees shall have the right to reject any or all bids; provided that these provisions shall not apply in case of extreme emergencies.

Construct or acquire buildings.

Acquire equipment and supplies.

Bids required, when.

"But the board shall exercise no power whatsoever conferred upon it by this Subdivision whereby obligations are assumed or an indebtedness created in excess of the funds on hand, belonging to the high school, and not

Limitations upon powers of boards.

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otherwise appropriated, or available to the board from the collection of taxes actually levied for the current year, or from the sale of bonds already authorized; and the power of the board to purchase, or otherwise acquire, or to sell, or dispose of, a site or sites for a high school, high school dormitories, high school gymnasiums, or other high school buildings, or for any proper high school purpose, or to build, purchase, or otherwise acquire, a high school building, high school dormitories, high school gymnasiums, or other buildings necessary for the high school or to sell, move or dispose of the same, shall be exercised only at the direction of a majority of the qualified electors of the county in the case of a county high school, or of the district in the case of a district high school, voting at an election to be called by the board, and otherwise noticed, conducted, canvassed and returned in the same manner as the annual election of school trustees in school districts of the first class; *provided, however, that where a site or sites for a high school, high school dormitories, high school gymnasiums or other high school buildings or for any other proper high school purposes is contiguous to a site upon which there exists a high school building erected and in use for high school purposes, the board may purchase or otherwise acquire such contiguous site or sites without calling for a vote of the qualified electors of the county, in the case of a county high school, or the district, in the case of a district high school, and upon the making of such a purchase of, or otherwise acquiring, such site or sites, the board may enter into a contract or obligation providing for the purchase of said site or sites by deferred payments and may incur indebtedness for the whole or any part of said purchase price and shall not be restricted in the terms of said contract or the amount of said purchase price except that the amount of the indebtedness incurred shall not exceed ten thousand dollars ($10,000.00) as to principal and interest; provided further, however, that before making any such purchase the board shall duly pass a resolution declaring such lands, to be purchased necessary for school purposes of said district, and provide for the purchase thereof; provided, further, that notice of the meeting at which said resolution is to be considered for final adoption and of the proposed passage of said resolution shall be given as provided by law for notices of election of trustees, at which meeting the electors of said district shall have the right to be present and to protest the passage of said*

Purchase of contiguous sites.

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resolution. If at the hearing on such resolution protests against the adoption of the same shall be made and the board of trustees shall adopt the same over such protests, the resolution shall not become effective for fifteen (15) days after the date of its adoption, during which time any taxpayer or taxpayers may appeal to the district court by filing with the clerk of such court a verified petition, a copy of which shall theretofore have been served upon the clerk or secretary of the board of trustees. Said petition shall set forth in detail the objections of the petitioners to the adoption of such resolution or to the purchase of the property as provided for in said resolution. The service and filing of said petition shall operate to stay such resolution until final determination of the matter by the court. Upon the filing of such petition the court shall immediately fix a time for hearing the same which shall be at the earliest convenient time. At such hearing the court shall hear the matter de novo and may take such testimony as it deems necessary. Its proceedings shall be summary and informal and its determination shall be final.

In case of county high schools, principal.

"3. In the case of a county high school, to employ for a period of not exceeding two (2) years some person as principal of the county high school who shall possess the qualifications required of a district superintendent of schools and who shall have charge of the county high school and whose tenure shall be the same as that of a district superintendent, except that the term shall be two (2) years instead of three (3).

In case of district high schools, superintendent and/or principal.

"4. In the case of a district high school, to employ for a period of not exceeding three (3) years some person as district superintendent and/or principal of schools who shall possess the qualifications required by law and who shall have charge of the district high schools.

Assistants and teachers.

"5. To employ such assistants and teachers upon the recommendation of the county high school principal or district superintendent or principal as the board may deem necessary for the proper conduct of the school, provided, however, that the assistants and teachers employed shall be possessed of the qualifications prescribed by the state board of education.

To fix salaries.

"6. To fix the salaries and compensation to be paid to the principal or district superintendent and assistants and teachers employed.

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"7. To adopt on the recommendation of the county high school principal or district superintendent or principal such courses of study as will adequately and properly fit the graduates of the high school for admission to any of the state institutions of higher education or any other course of study approved by the state board of education, provided, however, that such courses of study shall in any event conform to the standards prescribed by the state superintendent of public instruction under Section 1262.71.

To adopt courses of study.

"8. To admit to the high school without payment of tuition any pupil residing within the county and eligible for admission to high school under the rules and regulations of the state board of education.

To admit resident pupils without tuition.

"9. To admit to the high school without payment of tuition any pupil residing in another county whose attendance is authorized under Section 1262.81; but nothing herein contained shall be construed as denying the right of the board in a proper case to demand and enforce the payment of the sums specified in Section 82 above.

To admit non-resident pupils.

"10. In its discretion to admit to the high school any pupil residing in another county whose transfer is not authorized by Section 1262.81 upon the payment of such tuition as the board may fix, subject to any restrictions otherwise imposed by law, and provided that such pupil is eligible for admission to high school under the rules and regulations of the state board of education. But no such pupil shall be admitted to the high school or permitted to continue in attendance thereat to the exclusion of pupils residing in the county wherein the high school is located.

May fix tuition to be paid by non-resident pupils.

"11. To provide by contract, purchase, or otherwise, for free text books and all necessary and requisite school supplies, furniture, furnishings and equipment, for the repair of high school buildings and property, and for other needs of the high school, including dormitories and gymnasiums, grounds, faculty or school board, but subject at all times to the restrictions imposed by Subdivision 2 of this Section, or otherwise by law.

To provide free text books and supplies.

"12. To rent, lease and let to such persons and entities as the board may deem proper the high school halls, gymnasiums, buildings, and parts thereof, for such time

To rent and let high school halls.

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and rental as the board may designate, and to pay over to the county treasurer all sums collected on account of such letting for the credit of the high school.

May permit teachers to attend sessions of teachers' association.

"13. To close the high school at its discretion during the annual session of the state teachers' association and to allow the principal or district superintendent and teachers to attend such annual session without loss of salary.

Reports.

"14. To make such reports from time to time as the county superintendent of schools, the state superintendent of public instruction or the state board of education may require.

Dormitories.

"15. To equip, operate and maintain a high school dormitory or dormitories, for the use of the teachers and/or pupils of the school; to employ a suitable matron to take charge of, direct and supervise any such dormitory and such other employees as may be necessary; and to set aside out of the general funds of the high school a sum not exceeding one hundred dollars ($100.00), to be designated as the dormitory petty cash fund, which shall be placed at the disposal of the matron for the purpose of paying incidental petty expenses necessarily incurred from time to time in the operation of the dormitory, and to replenish such fund as the same may become exhausted, provided, however, that the matron shall keep an accurate and detailed account of her administration of the dormitory petty cash fund in such form as the state examiner may prescribe, and shall take proper receipts covering every disbursement made by her from such fund, and provided further that no single account or item paid by her out of the said fund shall exceed in amount ten dollars ($10.00).

Further general powers.

"16. To transact all business, to make and execute all contracts, to acquire, hold and dispose of all property, whether real or personal, in the name of the county or school district, as the case may be; and generally to have, possess, exercise and enjoy all powers and authority necessary to execute the specific powers, and to discharge the particular duties hereinbefore conferred and imposed upon the board; but nothing contained in this section shall be deemed or construed to confer any power or authority upon any board contrary to the provisions of Sections 1016 and 4447, in any case where the provisions

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of these Sections, or either of them, would otherwise be applicable."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 17, 1939.

CHAPTER 208

An Act for the Purpose of Providing for the Conservation, Protection, Restoration, and Proper Utilization of Grass and Forage Resources of the State of Montana as a Means of Restoration and Maintenance of the Prosperity and General Welfare of the State; Defining Terms, Words and Phrases; Creating the Montana Grass Conservation Commission; Defining Its Purpose; Providing for the Membership, the Appointment and Expenses Thereof; Defining the Powers and Prescribing the Duties of Said Commission; Granting Certain Authority Over State Grazing Districts and the Power to Hear and Determine Controversies Between Grazing Districts or Grazing Districts and Members or Nonmembers Thereof; Providing for the Appointment of a Secretary to the Grass Conservation Commission, His Compensation and Defining His Powers and Duties; Providing for Hearings by the Secretary or Any Member of the Commission Delegated to Hold the Same and for Appeal to the Montana Commission From the Decision and Orders Thereon; Providing for an Appeal to the District Court From a Decision of the Commission; Creating a Fund to Be Known as the State Grass Conservation Fund and Providing for the Assessment and Collection of Fees to Defray the Expenses of Said Commission; Providing for the Creation and Incorporation of Cooperative Grazing Districts and Defining Their Powers and Duties; and Defining Who May Become Members Thereof; and the Rights and Privileges of Members; to Authorize Such Districts to Purchase Grass Seed, Livestock, Supplies, to Lease State Lands and Other Lands, and to Undertake Reseeding of Depleted Range Areas or Abandoned Farm Lands, Title of "grass conservation act."

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Title of "grass conservation act."

Purchase or Otherwise Acquire the Possession of Land for Grazing Purposes, Conservation, Restoration and Improvement of Forage Resources; Granting to the Montana Grass Conservation Commission Supervisory Authority Over Grazing Districts; Providing for Cooperation of and With Governmental and State Departments or Agencies; Defining the Manner of Distributing Grazing Preferences and Revocation Thereof; Providing for the Liquidation of the Assets of a District Upon Its Dissolution and Providing the Compensation to a District for Range Improvements by Subsequent Lessees or Owners of Land; Providing for Crossing Privileges; Providing for the Use of Lands Lying Within the Exterior Boundaries of a District Controlled by a Non-member; to Grant the Commission the Authority to Prepare and Approve Rules and Regulations for the Purpose of Carrying Out the Provisions of This Act; to Define the Terms Trespass and Legal Fence as Related to Grazing Districts and Provide Penalties for the Violation Thereof; Providing for the Reservation of Range for Wild Life and Repealing Sections 7364.7 to 7364.29 Inclusive, of the Revised Codes of Montana, 1935, and Providing for the Associations Incorporated Under Previous Acts to Comply With the Provisions of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Short title and purpose of act.

Section 1. This act may be cited as the "grass conservation act". Its purpose is to provide for the conservation, protection, restoration, and proper utilization of grass, forage and range resources of the State of Montana, to provide for the incorporation of cooperative non-profit grazing districts, to provide a means of cooperation with the secretary of the interior as provided in the federal act known as the Taylor grazing act and any other governmental agency or department having jurisdiction over lands belonging to the United States or other state or federal agency as well as agencies having jurisdiction over federal lands, to permit the setting up of a form of grazing administration which will aid in the unification or control of all grazing lands within the State where the ownership is diverse and the lands intermingled and to provide for the stabilization of the livestock industry and the protection of dependent commen-

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surate ranch properties as defined herein. This act provides a state grass conservation commission to assist in carrying out the purposes of this act, to act in an advisory capacity with the state land board and county commissioners, and to supervise and coordinate the formation and operation of districts which may be incorporated under this act.

Definitions.

Section 2. The following words and phrases used in this act shall take the following interpretations:

"The commission."

1. "The commission" means "the Montana grass conservation commission."

"State district."

2. "State district" means a non-profit cooperative organization incorporated under the provisions of this act and its board of directors. "State district" also includes all lands, owned or controlled by the state district or its members.

"Range."

3. "Range" is the land within a grazing district upon which grazing permits are granted to maintain livestock through the established grazing period.

"Permits."

4. "Permits" are evidence of grazing privileges granted by state districts.

"A grazing preference."

5. A "grazing preference" is a right to obtain a grazing permit from a state district. It is attached to dependent commensurate property except as provided in this act.

"Secretary."

6. "Secretary" means the state secretary to the state grass conservation commission appointed under this act.

"Person."

7. "Person" means natural person or persons, unincorporated associations, partnerships, corporations and governmental departments or agencies.

"Commensurate property."

8. "Commensurate property" means land privately owned or controlled which is not range as herein defined.

"Dependent commensurate property."

9. "Dependent commensurate property" is commensurate property which requires the use of range in connection with it to maintain its proper use, and which produces or whose owner furnishes as part of his past customary practice the proper feed necessary to maintain livestock during the time other than the established grazing period on the range, and which has been used in connection with the range for a period of any three

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years or for any two consecutive years in the five-year period immediately preceding June 28, 1934.

"Animal unit."

10. "Animal unit" means one cow, one horse, or five sheep, six months old or over.

"Assessment."

11. "Assessment" means a special levy imposed on permittee members by the state district to raise funds for specific purposes as provided in Paragraph 6, Section 12. "Assessment" does not include fees.

12. All other words used herein shall receive the usual and ordinary interpretation.

Montana grass conservation commission.

Section 3. There is hereby created the Montana grass conservation commission of the State of Montana which commission shall be composed of five members with the powers and duties specified in this act. Such members shall be appointed by the governor of the State and approved by the senate, for four-year terms or until their successors are appointed and qualified; provided, however, three members of the first five appointed after the passage and approval of this act shall serve for terms as follows: One for a one-year term and one for a two-year term and one for a three-year term; at the expiration of these terms all subsequent appointments except those filling vacancies in unexpired terms, shall be for four years. All regular terms of such members shall begin upon April first. The governor, giving full consideration to representation to large and small operators, shall appoint one representative member and livestock operator who is either an officer or a director of an organized state grazing district, from each of the following groups:

Membership and terms.

(1) One member from the Montana Stockgrowers Association;

(2) One member from the Montana Woolgrowers Association;

(3) One member from the County Commissioners Association;

(4) One member from one of the cooperative state grazing districts, and the fifth (5th) member to be a person representing the general public familiar with the livestock industry. If a vacancy occurs on the commission the governor shall, within thirty days, fill such vacancy for the unexpired term from the group from

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which said vacancy shall occur. Expired terms shall be filled by appointment from the group to which the retiring member belonged.

Annual and special meetings.

Section 4. The members of the commission shall meet annually at the state capitol on the third Monday in June at which meeting the commission shall select its officers who shall serve during the ensuing year, and may hold special meetings at such time and place as may be necessary, said meetings to be called by the chairman, or by a majority of the commission, upon at least five days notice to each commissioner and to the secretary, and to be held at the time and place specified in the call for the same. A majority of the members of the commission shall constitute a quorum for the transaction of any business which may come before it. The said commission shall keep a record of all business transacted by it. The chairman and the secretary of the commission shall sign all orders, minutes, or other documents of the commission.

Secretary; compensation.

Section 5. The commission shall select and appoint a secretary at a salary of not to exceed two hundred and fifty dollars ($250.00) per month. The secretary shall be the executive officer of the commission and shall be controlled and directed by the rules and regulations established by the commission from time to time and applicable to the duties of his office. The commission shall fix the salary of the secretary.

Compensation of members.

Section 6. The members of the commission shall receive no compensation for their services but shall be allowed their actual expenses while attending meetings, such expenses to be audited, allowed and paid as herein provided.

Auditing and payment of claims.

The commission shall audit all claims, accounts, or bills for expenses or expenditures incurred by it, by its employees. If the commission approves them, they shall be certified to the board of examiners of the State of Montana. When approved by such board, said claims, accounts, or bills, shall be transmitted to the state auditor who shall thereupon draw a warrant upon the state grass conservation fund in payment thereof; provided that the board may by resolution authorize the secretary to audit and certify all expenses, salaries, and expense accounts of the commission, or its employees, and such audit shall

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be made a part of the commissioners' report to the governor, a copy of which shall be sent to all state districts coming under the provisions of this act.

Powers of the commission.

Section 7. The Montana grass conservation commission shall have the powers enumerated by the act, and shall have such other and further powers as shall be necessary and incidental to fully carry out such enumerated powers, and shall also have such other and further powers as shall be necessary and incidental to fully carry out the purpose and intent of this act. The powers of the Montana grass conservation commission shall include the power:

In respect to state districts and incorporated grazing associations.

1. To prepare and standardize various forms to be used by the state districts. To supervise or regulate the organization and operation of all state districts incorporated under this act, or grazing associations incorporated under Chapter 66, Laws of 1933, or Chapter 195, Laws of 1935, in accordance with the provisions of this act. To require any grazing association claiming to be incorporated under Chapter 66, Laws of 1933, or Chapter 195, Laws of 1935, but which has not completed its internal organization or not functioning, to complete its organization under this act within a reasonable time. In default thereof the commission may declare the said association dissolved and same shall be thereupon dissolved. In the event that any state district or the directors of any state district shall fail to comply with an order of the commission, said commission may order a hearing thereon within the district or county and cite said directors of said district to appear before said board; and if upon said hearing it appears that said board members refuse to perform the duties of their office as herein defined and as set forth in the articles of incorporation and the by-laws of said association, or refused to comply with a lawful order of said commission, the members of said board of directors may be summarily removed from office, and thereupon said district shall elect new officers. During such period until such new election the commission shall have the authority to operate and manage the affairs of such state district or to delegate such authority to the secretary or other suitable person or persons. The expense of operating and managing the affairs of a non-complying state district shall be paid by such non-complying state district before it can be reinstated.

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2. To issue citations directed to any person requiring his attendance before the commission, and to subpoena witnesses and pay such expenses as would be allowed in a court action. To subpoena witnesses.

3. To require any officer or director of a state district to submit any or all records of such state district to the commission for the purpose of aiding any investigation conducted by or under the authority of the commission or the secretary. To require submission of state district records.

4. To delegate to the secretary or any one or more of its members the power and authority to hold hearings on any matters affecting the commission. The secretary or any such members so delegated shall make a full report of such hearings to the commission. To delegate power to hold hearings.

5. To require state districts to furnish itemized financial reports annually.

6. The commission shall have the power to hire or discharge employees and legal counsel; to fix their wages or salaries and to designate their duties, and may incur such other expenses as may be necessary for the proper performance of its duties and the exercise of its powers. Employees.

7. To fully cooperate and enter into agreements on behalf of a state district, with its consent, with any governmental sub-division, department, or agency, in order to promote the purposes of this act. To cooperate with other agencies.

Section 8. Appeals may be taken from the decisions of the secretary, and the commission shall have jurisdiction to hear and decide all such appeals. An appeal from the decision by the secretary may be taken by filing a notice of appeal with the commission within sixty (60) days after the rendition of the decision by the secretary and notice thereof served upon the interested parties, or their attorneys, by registered mail by said secretary. The appeal to the commission shall be taken and review thereof had upon the record of the hearing conducted by the secretary and the decisions of said commission shall contain findings of fact which shall be conclusive except for the right to a judicial review as hereinafter provided. Appeals from decisions of the secretary.

An appeal from the decision of said commission may be taken to the district court wherein a portion of lands in said district lies. An appeal to the district court may Appeals from decisions of commission.

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be taken by filing a notice of appeal with said district court within thirty (30) days after the rendition of the decision by said commission and notice thereof given to the interested parties, or their attorneys, by registered mail. Thereafter the said commission must file with the clerk of such district court a transcript of the record of the hearing conducted by the secretary and of the decision of said commission. The appeal by the district court may be upon the record on file with said commission, or the district judge of said district may take additional evidence to supplement said record.

Incorporation of state districts.

Section 9. Whenever three or more persons who own or control commensurate property and are livestock operators within the area proposed to be created into a state district, shall decide to incorporate a state district, they shall submit a statement in writing to the commission together with a plat showing the proposed boundaries of the area. Such statement shall set forth the name of the proposed state district; the county or counties in which such proposed state district is located; and the names and addresses of all operators of land and livestock units within said area. The commission may then require any additional information it may deem necessary. On receipt of the said statement and plat and such additional information, the commission shall fix the time and place of a hearing for approval within the district or county, which shall not be less than thirty days or more than sixty days after receipt of said statement. The persons deciding to incorporate said state grazing district shall then cause notice of said hearing to be given by publishing a notice prescribed by the commission once a week for two successive weeks, the first publication to be at least thirty days prior to the date of hearing, in a newspaper of general circulation in such area. The secretary, for and on behalf of the commission, shall hear evidence offered in support of, or in opposition to the creation of said state district, and shall make a full inquiry into the advisability of the creation thereof; the record taken upon the hearing, together with the report of the secretary, shall be submitted to the commission. If the creation of said state district shall appear feasible, beneficial and desirable to the majority of those who own or control more than fifty per cent of the lands

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to be included in such district the commission may issue a certificate of approval.

Certificate of approval.

Section 10. Upon the issuance of the certificate of approval, three or more persons who own or control commensurate property and are livestock operators within or near the proposed state district may prepare articles of incorporation and file them in the office of the secretary of state without payment of any fees; said articles to be accompanied by the said certificate of approval and to be signed, sealed, and acknowledged. Such articles as prescribed by the commission shall substantially state the following:

Articles of incorporation, and contents thereof.

1. The name of the state district, the last four words of which shall be "cooperative state grazing district".

2. The county or counties in which said state district is located, and the place where the principal office and business of the state district will be conducted.

3. The membership fee for each member of the state district which shall not in any case be more than five dollars ($5.00).

4. The term for which said state district is incorporated, which shall not exceed forty years.

5. The names and residences of the persons who subscribe together with a statement that each owns or controls commensurate property and is a livestock operator within the proposed state district.

6. The powers of the state district, which must not be inconsistent with the provisions of this act.

7. The officers of the state district, their principal duties, and the principal duties of the board of directors.

8. The purpose for which the state district is incorporated. If the said articles substantially comply with the requirements herein set forth and are accompanied by the certificate of approval, the secretary of state shall issue to such state district a certificate of incorporation. All amendments to articles of incorporation shall also be filed by the secretary of state without charge.

Section 11. State grazing districts organized under this act shall, upon completion of their organization, file

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Map or plat of district to be filed.

with the county clerk of each county in which their lands lie, a map or plat of the external boundaries of such state district so created and a copy of their articles of incorporation. Whenever the boundaries of a state district shall be changed, and such change approved by the commission, the state district shall file with the county clerk or clerks a map or plat indicating such changed boundaries. Whenever the articles of incorporation shall be amended, such amendment shall be filed with said county clerk or clerks. It shall be the duty of any person herding or in control of any livestock in the approximate vicinity of any state districts to ascertain the boundary lines thereof.

Powers of state districts.

Section 12. Each state district organized under this act shall have the power:

To purchase or market livestock, etc.

1. To purchase or market livestock and livestock products, to purchase supplies and equipment. Such supplies may include among other things grass, grass seed, or forage, whether attached to and upon or severed from the land.

2. To sue or be sued in its corporate name.

To acquire forage lands.

3. To acquire forage producing lands by lease, purchase, cooperative agreements, or otherwise, either from the United States, the State of Montana, county or counties in which said lands are located, or from private owners. All lands to which a state district may acquire title may be disposed of by exchange, sale or otherwise.

Control use of range.

4. To manage and control the use of its range. This power shall include the right to determine the size of preferences and permit according to a fixed method which shall be stated in the by-laws and which shall take into consideration the rating of dependent commensurate property and the carrying capacity of the range, and may be subject to reservations, regulations and limitations under the terms of agreements between the state district and any agency of the United States. It shall also include the power to allot range to members or non-members, and to decrease or increase the size of permits if the range carrying capacity changes.

Fences and reservoirs.

5. To acquire or construct fences, reservoirs, or other facilities for the care of livestock, and to lease or purchase lands for such purposes.

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6. To fix and determine the amount of grazing fees to be imposed on members or non-members for the purpose of paying leases, and operating expenses. To fix and determine assessments and the amount thereof, to be made on members on an animal unit basis for the purpose of acquiring lands by purchase, or for the purpose of constructing improvements in said state district. To fix fees and assessments.

7. To specify the breed, quality, and number of male breeding animals which each member must furnish when stock is grazing in common in the state district. Breeding animals.

8. To employ and discharge employees, riders, and other persons necessary to properly manage the state district. Employees.

9. To set up and maintain a reasonable reserve fund.

10. To borrow money, and if necessary mortgage the physical assets of a state district to provide for operation and development, provided that at least eighty per cent of the permittee members of the state district consent in writing to such borrowing and such borrowing has been approved by the state grass conservation board; provided, however, that nothing herein contained shall be implied as conferring power upon any state district to mortgage the property of the individual members of the district. To borrow money and mortgage assets.

11. To change the boundaries of a district, to merge with another state district organized under this act, or to sub-divide. Change of boundaries, merger, subdivision.

(a) No such merger shall be made unless consented to by a majority of the members of each merging state district, and approved by the commission.

(b) And no sub-division shall be made unless consented to by a majority of the members in the affected area and approved by the commission.

12. To regulate the driving of stock over, across, into, or through the range, and to collect fees therefor. To impose sanitary provisions, regulations and practices. Driving of stock.

13. To undertake reseeding and other approved conservation and improvement practices of depleted range areas or abandon farm lands and enter into cooperative agreements with the federal government or an agency thereof or any other party or parties for such reseeding or conservation and improvement practices. Improvement of ranges.

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Incidental powers.

14. To do and perform any and all other acts in conformity with the provisions of this act, or incidental or necessary for the purpose of carrying out the full purpose and intent of this act.

Powers and duties of directors.

Section 13. The directors of the state district shall manage and exercise the powers of such state district subject to its by-laws and to the regulation of the commission as provided in this act.

Membership in district.

Section 14. Membership in the district is limited to persons, partnerships, corporations and associations engaged in the livestock business who own or lease forage producing lands within or near the district except that the agent of any person, association, partnership or corporation entitled to membership in the district, may become a member in place of his principal. If any agent becomes a member his qualifications for membership and his obligations to and the privileges in the district shall be measured by those his principal would have had if he had elected to become a member. No agent and his principal shall both be members of the district unless such agent has individual qualifications for membership which are separable from and independent of those of his principal. Permittee members only shall be entitled to vote on all issues submitted to a vote of the members. No such member shall have more than one vote. Voting by proxy shall not be permitted. All members who possessed preferential grazing permits during the preceding grazing season or who possess such a permit at the time of voting shall be designated as permittee members.

When any member shall dispose of a part of the lands or leases owned by him so that another shall become the owner of such lands or leases and acquire right to membership, then the rights and interests involved shall be determined by the directors of the state district with the approval of the commission.

By-laws.

Section 15. Each state district incorporated under this act shall within sixty (60) days after its incorporation adopt by-laws approved by the commission. Such by-laws may be amended or revised with the approval of the commission.

Section 16. Any state land situated within the boundaries of any grazing district created by this act, not otherwise disposed of by the state board of land

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District must lease available state land.

commissioners, must be leased by such grazing district at a reasonable rental, when offered for lease to the officers of such grazing district by the state board of land commissioners; provided, however, that the officers of such grazing district may appear or submit evidence in writing before the state board of land commissioners and show reason and cause for a change in such rental. If such cause there be, the state board of land commissioners may cause a reappraisal of the land in question. It shall be the duty of the grass conservation commission to require that all state districts comply with this Section.

Commission to advise board of land commissioners and county commissioners.

Section 17. The Montana grass conservation commission may act in an advisory capacity to the state board of land commissioners and board of county commissioners for the purpose of working out uniform plans for the use of lands lying within or without the boundaries of grazing districts, in conformity with recognized conservation and stabilization policies.

Incorporated grazing associations required to conform to this act.

Section 18. All grazing associations incorporated under Chapter 66, Laws of 1933, of Chapter 195, Laws of 1935, shall within six months amend their articles of incorporation and their by-laws to conform with the provisions of this act. Any district organized hereunder or any district or grazing association organized under prior laws as described in this Section may amend its articles of incorporation by a two-thirds vote of all members present at any regular or special meeting of its members and the approval of the commission; the only notice of such meeting which is necessary is the notice of meetings of members as required by the by-laws of such district or association. Such amended articles of incorporation and by-laws shall be submitted to the commission for approval. Upon approval, the commission shall issue its certificates of approval. Such amended articles of incorporation shall be filed by the secretary of state without charge, but shall not be filed unless accompanied by such certificate of approval. Upon the filing of such amended articles with the secretary of state and the proper county clerk or clerks, such association or district shall possess the same powers and shall be subject to the same obligations as if incorporated under this act. Any association refusing to comply with the provisions of this Section or failing to so comply within the time provided in this Section may be dissolved by an order of the commission.

Amendment of articles of incorporation.

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Mizpah Pumpkin Creek grazing district.

Section 19. No territory included within the Mizpah Pumpkin Creek grazing district shall be included within a state district unless such Mizpah Pumpkin Creek grazing district shall approve and recommend an application to such state grazing district for the inclusion of such territory.

Distribution of grazing preferences.

Section 20. When a state district is organized, grazing preferences shall be distributed in the following manner: Any member of a state district owning or controlling dependent commensurate property as heretofore defined may be given a grazing preference. If the carrying capacity of the range exceeds the reasonable needs of members owning or controlling dependent commensurate property, members owning or controlling commensurate property shall have the preference. If the carrying capacity of the range exceeds the reasonable needs of members owning or controlling dependent commensurate property or commensurate property, temporary grazing permits may be issued to non-members, preferring those that have used the range for any three or any two consecutive years in the five-year period immediately preceding June 28, 1934. Such temporary permits shall be merely privileges granted from year to year and their possession shall not establish a preference.

Application for grazing preferences.

Section 21. Any person entitled to grazing preferences within any state grazing district based on dependent commensurate property or commensurate property must make application one year after the passage of this act to qualify for said preference; or, in the case of state districts hereafter organized, must make application within one year after said district shall have been organized to qualify for said preference.

Grazing preferences appurtenant to dependent commensurate property.

Section 22. Grazing preferences shall run with and be appurtenant to, the dependent commensurate property upon which they are based. They shall not be subject to devise, bequest, attachment, execution, lease, sale, exchange, transfer, pledge, mortgage, or other process, or transaction, except as provided in this Section or in the by-laws of a state district.

When the land to which a preference is attached shall change its control or ownership such preference shall change with the land, provided, that the person to which such control or ownership changes shall secure a non-use

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permit or shall pay the usual grazing fees. If such person fails to secure such non-use permit or refuses to pay such grazing fees, the preferences may be revoked by the state district. If any person controls but does not own land and does not secure a non-use permit and refuses to pay grazing fees, the state district shall notify the owner of such land by registered mail that the preference attached to such land will be revoked unless such owners shall pay the usual grazing fees to the state district within sixty (60) days from the time of receipt of such notice. The state district may revoke such preference if the owner or mortgagor does not pay such fees or secure a non-use permit.

Revocation of preference, when.

When a preference is revoked, it shall be detached from the dependent commensurate or commensurate property to which it was formerly appurtenant. The preference shall immediately shift to the state district. The state district may then allocate it to either dependent commensurate or commensurate property in the manner provided by its by-laws.

Section 23. Subsequent lessees or owners of land shall compensate a state district for the value of range improvements constructed with the consent of the owner, upon lands leased by the state district. Such value shall be the value at the expiration date of the lease. In the event that the owner and the state district cannot agree as to such value, the state district may either remove or abandon such improvement. In the event that the subsequent lessee and the state district cannot agree as to such value, it shall be fixed by the commission.

Subsequent lessees to compensate district for range improvements.

Section 24. Whenever a state district shall possess reserves and physical assets, the values of which are greater than its liabilities, and a permittee member shall lose his grazing preference, he shall be entitled to receive his proportionate share of the value of such excess from the state district, as determined by the annual accounting of the state district. The state district may set off the amount of any claim it may have against such former member.

Permittee member to receive share of surplus assets, when.

Whenever a new member shall receive a grazing preference, he shall, as a condition of receiving such preference, pay to the state district the value of the equitable interest in the physical assets and reserve fund

Payment required of new member receiving a grazing preference.

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which accrues to him by virtue of such membership. Such value shall be determined at the time of receiving such preference, and upon the basis of the determination of value of such physical assets and reserves made at the last annual accounting.

Dissolution of district.

Section 25. A state district may request dissolution at any time with the consent of three-fourths of its permittee members. When such consent has been given, the directors shall distribute the assets of the state district, either in items of property or in cash or in both. Distribution shall first be made to creditors up to the amount of their claims, providing, that a distribution of any property must be with the consent of the commission. Distribution shall then be made to permittee members upon the basis of their proportionate interest in such assets, provided that a distribution of any property must be with the consent of the commission. If assets must be liquidated, the directors shall offer such assets for sale at public auction after publication of a notice of such sale once a week for two successive weeks in a newspaper of general circulation within the state district. A final report of all dissolution proceedings shall be made to the commission by the directors. Upon the approval of such report by the commission, it shall order such state district dissolved.

Grazing permit or crossing privilege required.

Section 26. (1) No person whether a member or a non-member of a state district, shall graze stock within the external boundaries of a state district, or trail stock across, upon or into any range of a state district unless he shall first obtain a grazing permit or a crossing privilege from the state district; provided, that this provision shall not require any person to obtain a grazing permit to graze upon land owned or controlled by him if the stock so grazed is restrained from grazing upon or trailing across lands controlled by the state district. Any person violating the provisions of this Section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00).

Penalty.

Trespassing stock may be impounded.

(2) If any stock grazes upon lands owned or controlled by a state district without the permission of the state district, such stock may be impounded for trespass and sold in the manner provided in Section 3379 of the Revised Codes of Montana, 1935.

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(3) Section 3378 of the Revised Codes of Montana, 1935, shall apply to fences within the external boundaries of a state district, whether or not such external boundaries are entirely fenced, except where such Section 3378 conflicts with the provisions of this Section.

Fences within district.

Section 27. When any land is situated within the boundaries of a state district and is not leased or controlled by said district and not surrounded by a legal fence, any person owning or controlling such lands shall have the right to obtain a grazing permit from the state district, the size of which shall be determined by the carrying capacity of such land, full consideration being given for location of necessary stock water. The use of such permit shall be subject to all regulations by the state district. If the person owning or controlling such land declines to secure such permit, or fails to lease such land to the state district at a fair lease rental and fails to fence such land at his own expense, he shall not be entitled to recover damages, for trespass by stock grazing under permit, but the state district shall not issue a permit to use the carrying capacity of such land. Farming lands lying within the external boundaries of a state district shall be protected by the owner or lessee to the extent of a legal fence as described in Subsection (1) of Section 3374 of the Revised Codes of Montana, 1935. The state district or its members shall not be liable for damages unless such farming lands are protected by a sufficient fence as described in this Section.

Grazing permits to owners of land not controlled by district.

Section 28. There is hereby created a fund to be known as the state grass conservation fund, which shall consist of funds as may be appropriated by the state legislature and placed to the credit of such fund. Any funds in the state grazing fund as created by Chapter 194, Laws of 1935, are hereby transferred to the state grass conservation fund created by this act. However, upon application filed within twelve (12) months after the passage and approval of this act by any district electing not to come under the provisions of this act the proportionate part of the fees remaining within this present state grazing fund shall be refunded to said non-cooperating grazing district.

State grass conservation fund.

Section 29. The state grass conservation commission shall have authority and right to impose such fees against the several state grazing districts of the State of Montana

Fees may be imposed by commission against districts.

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and in an amount not in excess of five cents (5c) per animal unit based upon the number of animal units per year for which the district grants permits, to defray any or all expenses created by the state grass conservation commission, and said state grass conservation commission shall from such fees and collections repay to the state treasurer of Montana any and all appropriations provided by the State of Montana for the establishment of this commission and the administration of this act when so collected. When such appropriation by the State of Montana is repaid, the balance of such funds shall be held in the state grass conservation fund, herein created, to be expended by order and direction of the state grass conservation commission for the further administration of the commission, and thereafter said commission shall be maintained by funds obtained from the livestock fees hereinbefore provided. If any state district fails or refuses to pay such fee or fees on or before the first day of May of each year, and after such district shall have been provided with a full report from the commission of all moneys collected and expended by it for its fiscal year next preceding that date, the commission shall have authority to compel and levy, collection and payment by writ of mandate or other appropriate remedy against said state district.

Range for wild game animals.

Section 30. In each state district a sufficient carrying capacity of range will be reserved for the maintenance of a reasonable number of wild game animals, to use the range in common with livestock grazing in the district. The Montana grass conservation commission may act in an advisory capacity to the state fish and game commission in the protection of wild-life within the boundaries of all grazing districts. The Montana grass conservation commission shall encourage the transfer of beaver from streams where they are doing damage to other streams where they are needed.

Separability of act.

Section 31. If any clause, sentence, section, paragraph, part or portion of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, unconstitutional or inoperative, such judgment shall not affect, impair or invalidate the validity of the act as a whole, or the remainder of this or any part thereof which can be given effect, but shall be confined in its operation to the particular clause, sentence, section,

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paragraph, part or portion directly adjudged to be so invalid, unconstitutional or inoperative.

Repealing clause.

Section 32. Sections 7364.7 to 7364.29 inclusive of the Revised Codes of Montana, 1935, are hereby repealed and all acts or parts of acts, in relation to state grazing districts, in conflict herewith, are hereby repealed.

Effective date.

Section 33. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 209

An Act to Amend Section 7 of Chapter 85, Laws of the Twenty-fifth Legislative Assembly, 1937, Relating to Continuance of an Emergency and Continuing in Force the Provisions of Said Chapter 85.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 7, ch. 85, laws of 1937, amended.

Section 1. That Section 7 of Chapter 85, laws of the twenty-fifth legislative assembly, 1937, be, and the same is hereby amended to read as follows:

Emergency declared.

"Section 7. Because of the inability of thousands of citizens throughout the State to find employment and to support themselves and their families in the present depression, and because of serious crop failures resulting from unprecedented drought conditions, it is necessary to proceed immediately with the prosecution of projects authorized by the federal government in order to create employment and prevent irreparable injury to the people of the State. An emergency is hereby declared to exist, and this act shall not be subject to the referendum, and shall be in full force and effect from and after its passage and approval and shall continue in effect until March 15th, *1941*, and thereafter shall be of no force or effect."

Limitation of act.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

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CHAPTER 210

An Act to Provide for the Reporting of Accidents Upon the Public Highways; to Provide for the Duties of Persons Involved in Such Accidents; to Require Persons Involved in Such Accidents to Furnish Certain Information and to Make Reports Thereof; Authorizing Incorporated Cities to Require the Filing of Reports of Accidents; Providing Other Regulations Relating to the Public Highways and Providing Penalties for the Violation of the Provisions Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

ARTICLE I

Words and Phrases Defined

Definitions.

Section 1. **Definitions.** The following words and phrases used in this act shall, for the purpose of this act, have the meanings respectively ascribed to them in this article.

"Registrar."

Section 2. (a) **Registrar.** The registrar of motor vehicles of this State.

"Supervisor."

(b) **Supervisor.** The Montana highway patrol board, its duly appointed supervisor and patrolmen.

ARTICLE II

Accidents

Accidents involving death or personal injuries.

Section 3. **Accidents Involving Death or Personal Injuries.** (a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 5. Every such stop shall be made without obstructing traffic more than is necessary.

Penalty.

(b) Any person failing to stop or to comply with said requirements under such circumstances shall upon conviction be punished by imprisonment for not less than thirty (30) days nor more than one (1) year, or by fine of not less than one hundred dollars ($100.00) nor more than five thousand dollars ($5,000.00), or by both such fine and imprisonment.

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(c) The registrar shall revoke the operator's or chauffeur's license of the person so convicted.

Section 4. **Accident Involving Damage to Vehicle.** The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of Section 5. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop, or comply with said requirements under such circumstances shall be guilty of a misdemeanor.

Accident involving damage to vehicle.

Penalty.

Section 5. **Duty to Give Information and Render Aid.** The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address, and the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's or chauffeur's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

Duty to give information and render aid.

Section 6. **Duty Upon Striking Unattended Vehicle.** The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck, a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof.

Duty upon striking unattended vehicle.

Section 7. **Duty Upon Striking Fixtures Upon a Highway.** The driver of any vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a highway shall take reasonable steps to

Duty upon striking fixtures upon a highway.

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locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's or chauffeur's license and shall make report of such accident when and as required in Section 9 hereof.

Immediate reports of accidents.

Section 8. **Immediate Reports of Accidents.** (a) The driver of a vehicle involved in an accident resulting in injury to or death of any person shall immediately by the quickest means of communication give notice of such accident to the local police department if such accident occurs within a municipality, otherwise to the office of the county sheriff or the nearest office of the supervisor.

Report by coroner.

(b) Every coroner or other official performing like functions upon learning of the death of a person in his jurisdiction as the result of a traffic accident shall immediately notify the nearest office of the supervisor.

Written reports of accidents.

Section 9. **Written Reports of Accidents.** (a) The driver of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of twenty-five dollars ($25.00) or more shall, within twenty-four (24) hours after such accident, forward a written report of such accident to the supervisor.

Reports by witnesses.

(b) The supervisor may require any driver of a vehicle involved in an accident, of which report must be made as provided in this Section, to file supplemental reports whenever the original report is insufficient, and may require witnesses of accidents to render reports.

Law enforcement officers to report.

(c) Every law enforcement officer who in the regular course of duty, investigates a motor vehicle accident, of which report must be made as required in this Section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within twenty-four (24) hours after completing such investigation, forward a written report of such accident to the supervisor.

When driver unable to report.

Section 10. **When Driver Unable to Report.** Whenever the driver of a vehicle is physically incapable of making an immediate or a written report of an accident as required in Sections 8 and 9, and there was another occupant in the vehicle at the time of the accident capable

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of making such report, such occupant shall make or cause to be made the report not made by the driver.

Accident report forms.

Section 11. **Accident Report Forms.** (a) The supervisor shall prepare and upon request supply to police departments, coroners, sheriffs, garages and other suitable agencies or individuals, forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by persons involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the causes, conditions then existing, and the persons and vehicles involved.

(b) Every accident report required to be made in writing shall be made on the appropriate form approved by the supervisor and shall contain all of the information required therein unless not available.

Monthly report by coroners.

Section 12. **Coroners to Report.** Every coroner, or other official performing like functions, shall on or before the 10th day of each month report in writing to the supervisor the death of any person within his jurisdiction during the preceding calendar month as the result of an accident involving a motor vehicle and the circumstances of such accident.

Garages to report.

Section 13. **Garages to Report.** The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident of which report must be made as provided in Section 9, or struck by any bullet, shall report to the supervisor within twenty-four hours after such motor vehicle is received, giving the engine number, registration number and the name and address of the owner or operator of such vehicle.

Accident reports confidential.

Section 14. **Accident Reports Confidential.** All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and shall be for the confidential use of the supervisor or other state agencies having use for the records for accident prevention purposes, except that the supervisor may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident. No such

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report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the supervisor shall furnish upon demand of any person who has, or claims to have, made such a report or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the supervisor solely to prove a compliance or a failure to comply with the requirement that such a report be made to the supervisor.

Supervisor to tabulate and analyze accident reports.

Section 15. **Supervisor to Tabulate and Analyze Accident Reports.** The supervisor shall tabulate and may analyze all accident reports and shall publish annually or at more frequent intervals statistical information based thereon as to the number and circumstances of traffic accidents.

Cities may require accident reports.

Section 16. **Any Incorporated City May Require Accident Reports.** Any incorporated city, town, village, or other municipality may by ordinance require that the driver of a vehicle involved in an accident shall also file with a designated city department a report of such accident or a copy of any report herein required to be filed with the supervisor. All such reports shall be for the confidential use of the city department and subject to the provisions of Section 14 of this act.

ARTICLE III

Effect of and Short Title of Act

Uniformity of interpretation.

Section 17. **Uniformity of Interpretation.** This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Short title.

Section 18. **Short Title.** This act will be cited as the uniform accident reporting act.

Constitutionality.

Section 19. **Constitutionality.** If any part or parts of this act shall be held to be unconstitutional such unconstitutionality shall not affect the validity of the remaining parts of this act. The legislature hereby declares that it would have passed the remaining parts of this act if it had known that such part or parts thereof would be declared unconstitutional.

Section 20. Sections 1744.1 and 1754.6 of the Revised Codes of Montana, 1935, be, and the same are hereby repealed.

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Section 21. **Repeal.** All acts or parts of acts in conflict with the provisions of this act are hereby repealed. Repealing clause.

Approved March 17, 1939.

CHAPTER 211

An Act to Amend Section 1741.9 of the Revised Codes of the State of Montana of 1935, as Amended by Chapter 62 of the Laws of Montana, Twenty-fifth Session, 1937, Relating to Arrest by Highway Patrolmen and Empowering Therein Patrolmen to Stop Motor Vehicles Transporting Livestock or Livestock Products and Take Possession of the Same Whenever They Have Good Reason to Believe Such Are Stolen.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1741.9 of the Revised Codes of the State of Montana of 1935, as amended by Chapter 62 of the Laws of Montana, Twenty-fifth Session, 1937, be, and the same is hereby amended to read as follows: Sec. 1741.9, R. C. 1935, amended.

"Section 1741.9. **When Arrest by Patrolmen Allowed —Forbidden to Act in Labor Disputes or Congregate to Preserve Peace in One County—Empowered to Stop Vehicles Transporting Livestock and Livestock Products.** In addition to the above mentioned duties the highway patrol supervisor and all patrolmen are authorized under this act to make arrests for the following offenses committed; *if committed in the presence of said supervisor or any of said patrolmen, or if committed in a rural district, upon the request of a peace officer, or if committed in a city or town of less than twenty-five hundred (2500) inhabitants, upon the request of any peace officer, or the mayor, or an alderman of said city or town:* When arrest by patrolmen allowed.

"The crimes of murder, assault with a deadly weapon, arson, burglary, larceny, kidnaping, illegal transportation of narcotics or violation of the Dyer act regarding the transportation of stolen automobiles, and shall be deemed police officers in making arrest in all offenses occuring on the highways of the state; provided that such highway patrolmen shall have no authority and are expressly forbidden to make arrests in labor disputes or in

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preventing violence in connection with strikes, and shall not be permitted to perform any duties whatsoever in connection with labor disputes, strikes, or boycotts, and shall not be permitted to congregate or act as a unit in one county to suppress riots or preserve the peace.

May stop trucks transporting livestock.

"The patrolmen are also hereby empowered to stop any truck or motor vehicle in which livestock or livestock products are being transported and ascertain whether the driver of such truck or vehicle is rightfully in possession of such livestock or livestock products; and whenever the patrolmen have good reason to believe that such livestock or livestock products have been stolen, they are empowered to take possession of the same until such livestock or livestock products can be delivered into the custody of the sheriff or until such time as the facts, as to the actual ownership can be ascertained."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 212

An Act to Amend Section 6711 and Section 6713, Revised Codes of Montana, 1935, Relating to the Accumulation of the Income of Property Directed by Will, Trust or Transfer and Relating to the Application of Said Income, and Providing the Time for Which an Accumulation May Be Provided and the Manner in Which Application May Be Made for Allowances From an Accumulation.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 6711, R. C. 1935, amended.

Section 1. That Section 6711, Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Accumulations of income.

"Section 6711. **Accumulations of Income.** An accumulation of the income of property *may be directed by any will, trust or transfer in writing sufficient to pass the*

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property or create the trust out of which the fund is to arise, for the benefit of one or more persons, *objects or purposes, to commence within the time permitted for the vesting of future interests and not to extend beyond the period limiting the time within which the absolute power of alienation of property may be suspended as prescribed by law.''*

Sec. 6713, R. C. 1935, amended.

Section 2. That Section 6713, Revised Codes of Montana, 1935, be, and the same hereby is amended to read as follows:

Application of income to support, etc.

"Section 6713. **Application of Income to Support, Etc.** *When one or more persons for whose benefit an accumulation of income has been directed is or are destitute of other sufficient means of support or education, the proper court, upon application, may direct a suitable sum to be applied thereto out of the fund directed to be accumulated for the benefit of such person or persons.''*

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith, hereby are repealed.

Approved March 17, 1939.

CHAPTER 213

An Act to Amend Section 2396.3 of the Revised Codes of Montana of 1935, as Amended by Chapter 102 of the Session Laws, Twenty-fifth Legislative Assembly of Montana, Providing for the Determination and Use of and Distribution of the State Highway Fund for Construction Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2396.3, R. C. 1935, amended.

Section 1. That Section 2396.3 of the Revised Codes of Montana of 1935, as amended by Chapter 102, Session Laws, twenty-fifth legislative assembly, State of Montana, be, and the same is hereby amended to read as follows:

"Section 2396.3. At the start of the fiscal year beginning July 1, 1937, and ending June 30, 1938, the state highway commission shall compute from its records the percentage of uncompleted mileage within each of said

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Method for determining allotment of construction moneys.

districts which each district respectively bears to the total uncompleted mileage of said federal highway system within this State at that time, and for that fiscal year the state highway commission shall use the percentages so computed in allotting to each of said districts construction moneys from the state highway fund as defined and provided by Section 2396.2. At the beginning of each fiscal year thereafter the same procedure shall be carried out, and the actual respective percentages of uncompleted mileage in each district as so computed and determined at the beginning of each fiscal year shall be used in allotting said moneys to said districts for that fiscal year. As a basis for the determination of the amount of uncompleted mileage of said federal highway system in this State for each fiscal year, the state highway commission shall adopt as the criterion the current definition, as prescribed by the federal bureau of public roads, for a fully and adequately completed federal highway in this State having proper engineering standards of alignment, width, grades, drainage, and with an oil or dustless surface conforming to said federal requirements. This criterion shall be considered as a one hundred per cent completed federal highway; and federal highway mileage which is only graded, or which is only graded and surfaced with untreated crushed gravel or rock, or which is otherwise only partially completed under the application of this criterion, shall be considered as only partially completed on a percentage basis, this to be determined from the relative estimated percentage costs of construction already performed and of additional construction which must be performed to bring said mileage up to the standard of said criterion.

"At the start of the fiscal year beginning July 1, 1939, and ending June 30, 1940, and at the beginning of each fiscal year thereafter the state highway commission shall compute from its records the mileage in each of said districts of totally unimproved mileage and in a like manner the mileage in each district of uncompleted mileage.

On the basis of unimproved and uncompleted highway mileage in district.

They shall then compute percentages for each district which the totally unimproved mileage and the uncompleted mileage each respectively bear to the total of these unimproved and uncompleted mileages in each district. The construction funds then allocated to each of said districts in conformity with Section 2396.2 of the Revised Codes of

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Montana, 1935, shall be allotted by the state highway commission for the purpose of construction of new highways and the completion or rebuilding of existing highways on the ratio which the unimproved mileage in each district bears to the total uncompleted and unimproved mileage in each district and which the uncompleted mileage bears to the total uncompleted and unimproved mileage in each district, provided, however, in no district shall there be allotted for the purpose of construction of unimproved mileage less than 60% of the moneys allocated from the state highway fund to said district for all construction purposes until such time as the unimproved mileage in said district has been improved.''

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 214

An Act Defining "Itinerant Merchant" and "Established Place of Business"; Providing Who Are Exempt From the Provisions Hereof; Requiring a License and Fixing the Amount Thereof and Prescribing the Conditions Under Which the Same Shall Be Issued; Providing for a Bond, Defining the Conditions Thereof; Stating When and How a License May Be Revoked; Defining the Powers and Duties of the Commissioner of Agriculture, Peace Officers and Employees of the Department of Agriculture; Designating the Disposition of Funds; Stating This Act Shall not Affect or Repeal Certain Existing Laws; Declaring the Intent of the Legislature; Fixing a Penalty for Violations and Designating the Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

"Itinerant merchant" defined.

Section 1. For the purpose of this act, "itinerant merchant" shall mean any person who buys, or offers to buy, or sells, or offers to sell, in this state, at wholesale or retail any produce as defined by Section 2443.3 of the

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Revised Codes of Montana, 1935, who does not hold a license under the provisions of Chapter 229 of the Revised Codes of Montana, 1935, and transports the same in this State by use of a motor vehicle, or by any other method of transportation, except as herein otherwise provided, or who has not secured the permit of exemption herein provided.

"Established place of business" defined.

Section 2. "Established place of business", for the purpose of this act, shall mean any permanent warehouse, building, or structure, at which a permanent business is carried on as such in good faith and not for the purpose of evading this act, and at which stocks of the property being transported are produced, stored or kept in quantities reasonably adequate for, and usually carried for, the requirements of such business, and which is recognized, licensed and taxed as a permanent business at such place, and shall not mean residences, tents, temporary stands or other temporary quarters, any railway car, nor permanent quarters occupied pursuant to any temporary arrangement.

Persons not included.

Section 3. The term "itinerant merchant" shall not mean or include the following:

Person transporting produce produced by him.

(1) A person using a motor vehicle owned by him, whether operated by him or his agent, for the transportation of produce produced by him on owned or leased premises, when the entire course of such transportation extends not more than one hundred fifty (150) miles from his residence, whether such residence be within or without this State.

Person having a permit of exemption.

(2) Any person handling produce grown by him as herein provided who shall have secured from the commissioner of agriculture, labor and industry before offering any such produce for sale, a permit of exemption. Such permit shall be issued by the commissioner of agriculture upon application and payment of a fee of one dollar ($1.00), provided the applicant shall, in the discretion of the commissioner of agriculture, be able to satisfactorily show that he will sell, or offer for sale, only produce of his own production; and when and if issued shall permit the sale of only such produce, and shall be forfeited at any time the holder of such permit of exemption shall sell, or offer to sell any produce not of his own production.

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(3) A person transporting property owned by him in a motor vehicle owned by him, whether operated by him or his agent, when such transportation is incident to a business conducted by him at an established place of business operated by him, either within or without this State, and when said property is being transported to or from an established place of business, operated by him in this State. Person transporting his property to or from his established place of business.

(4) A person transporting property for his own consumption or use and not for sale. Person transporting property for own use.

Section 4. No person shall be exempt from the requirements of this act unless he or the driver of the motor vehicle upon which his property is being transported, shall, upon the request of any peace officer or any person charged with the enforcement of this act, including all employees of the department of agriculture, labor and industry, execute an affidavit containing such facts as the commissioner of agriculture may, in his discretion, require, and deliver the same to said peace officer or such employee. Such affidavit must clearly show that the person claiming the exemption is entitled to one or more of the exemptions provided in this act. Who shall be exempt.

Section 5. No person shall engage in business as an itinerant merchant, as defined by this act, without obtaining from the commissioner of agriculture the license herein required. Itinerant merchant, license.

Section 6. An application for a license to engage in business as an itinerant merchant shall be made to the commissioner of the department of agriculture, labor and industry upon forms to be prepared by him. Application for license.

A separate application and license shall be required for each motor vehicle to be operated. Such application shall contain such facts as the commissioner of agriculture shall require. The fee for each license shall be one hundred dollars ($100.00) for the calendar year in which it is issued, and each license shall expire at the end of the calendar year in which issued. The proper fee shall accompany the application. The application shall be signed and sworn to by the applicant. License for each motor vehicle operated. Fee.

Section 7. No license shall be issued until the applicant shall have filed with each application, and the same has been approved by the commissioner of agriculture,

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Surety bond.

a surety bond issued by a company authorized to do business in the state in the penal sum of not less than one thousand dollars ($1,000), in such form as may be prescribed by the commissioner of agriculture conditioned upon the delivery of honest weights, measures, or grades, accurate representation as to quality or class of produce, the actual payment of checks, drafts or other obligations delivered by the itinerant merchant in exchange for the purchase of such produce, and the payment of all obligations incurred by him for the purchase of the same.

License, issuance, form, and display of.

Section 8. Upon the approval of the application and bond and upon compliance with the terms of this act, the commissioner of agriculture, labor and industry shall issue to the applicant a license as an itinerant merchant in such form as the commissioner of agriculture may prescribe. Such license shall at all times be carried by the driver of the motor vehicle described and shall at all times be subject to inspection by any person.

License non-transferrable.

Section 9. No license issued pursuant to this act may be sold or transferred, and no license may be transferred from one vehicle to another, without the written consent of the commissioner of agriculture.

Revocation of license.

Section 10. Upon such notice and hearing as the commissioner of agriculture may deem proper, he may revoke any license issued under the provisions of this act for failure to comply with any of the laws of this State.

Rules for administration of act.

Section 11. The commissioner of agriculture, labor and industry shall make and enforce such rules for the administration of this act as he may deem necessary and proper.

Offending vehicle to be kept in custody.

Section 12. Any motor vehicle operated in violation of this act shall be kept in the custody of any person authorized to enforce any of the laws of this State, or in the custody of any person authorized to enforce this act including all employees of the department of agriculture, labor and industry, and shall not be operated except under his or their authority and solely for the purpose of taking it to the nearest convenient place of custody, until the provisions of this act have been complied with.

Disposition of license fees.

Section 13. All sums received from license fees under this act by the commissioner of agriculture, shall be by him deposited with the state treasurer, and shall be used

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to defray the cost of administration and enforcement of this act.

Construction of act.

Section 14. Nothing in this act shall be construed to repeal or amend any statute delegating authority to any county or municipal corporation to license, tax, or regulate peddlers or itinerant merchants. This act shall not be construed as repealing or amending any of the provisions of Chapter 229 of the Revised Codes of Montana, 1935.

Penalty.

Section 15. Any person violating any provision of this act shall be guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine of not less than twenty-five dollars ($25.00) and not more than two hundred dollars ($200.00).

Separability of act.

Section 16. It is hereby declared the intention of the legislature that no section, paragraph, sentence, clause, phrase or word of this act is an inducement to the enactment of any other part or portion of the same; and if any part or portion of this act should be held by any court of competent jurisdiction to be unconstitutional, such decision shall not affect the validity of the remainder of this act.

Effective date.

Section 17. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 215

An Act to Amend Sections 1, 4, and 5, Chapter 87 of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana, Entitled: "An Act Establishing a Retirement System to Provide for the Retirement Upon Retirement Allowances of Public School Teachers in the State of Montana; Establishing a Retirement Board for the Administration of Such System; and Fixing the Powers and Duties Thereof; Fixing the Membership in the Retirement System and Providing Retirement Allowances Thereunder; Establishing Certain Funds for the Administration of Said System and Providing for the Securing of the Moneys; Income, and Revenue for

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the Maintenance of Such Funds, and Providing for the Appropriation of Such Funds as Are Necessary; and Providing for the Discontinuing of the Retirement System Established by Sections 1113 to 1132, Inclusive, of the Revised Codes of Montana", so That Teachers in the University of Montana Shall Be Included in the Membership in the Teacher's Retirement System of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1, ch. 87, laws of 1937, amended.

Section 1. That Section 1 of Chapter 87 of the laws of the twenty-fifth legislative assembly, be, and the same is hereby amended to read as follows:

"Section 1. **Definitions.**

Definitions.

"The following words and phrases used in this act shall have the following meanings unless a different meaning is plainly required by the content:

"Retirement system."

"(1) 'Retirement system' shall mean the teacher's retirement system of the State of Montana provided for in Section 2 of this act.

"Retirement board."

"(2) 'Retirement board' shall mean the retirement board provided by Section 3 of this act to administer the retirement system.

"Employer."

"(3) 'Employer' shall mean the State of Montana or the board of trustees of any school district employing teachers subject to the provisions of this act; or other agency of and within the State by which the teacher is paid.

"Teacher."

"(4) 'Teacher' shall mean any teacher in the public elementary and high schools of the State, *and the University of Montana, as constituted in accordance with Section 852, Revised Codes of Montana, 1935,* including all kindergarten teachers in the public schools, and shall include any school librarian or physical training teacher, principal, vice principal, supervisor, superintendent, county superintendent of schools, and any other member of the teaching or professional staff of any public elementary or high school of this State, *and any administrative officer or member of the instructional or scientific staff of the University of Montana;* provided that no person shall be deemed a teacher within the meaning of this act

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who is not so employed for full time outside vacation periods. The word 'teacher' shall also include any person employed in the office of or by the superintendent of public instruction in the performance of duties pertaining to instructional services. In all cases of doubt, the retirement board shall determine whether any person is a teacher as defined in this act.

"Member." "(5) 'Member' shall mean any person included in the membership of the system as provided in Section 4 of this act.

"Service." "(6) 'Service' shall mean service as a teacher as described in Subsection (4) of this Section and paid for by an employer as described in Subsection (3) of this Section.

"Prior service." "(7) 'Prior service' shall mean service as a 'teacher', or in a similar capacity outside of the State, rendered prior to the date of establishment of the system, *and in the case of teachers in the University of Montana rendered prior to September 1, 1939,* for which credit is allowable as provided in Section 5 of this act.

"Membership service." "(8) 'Membership service' shall mean service as a teacher rendered while a member of the retirement system.

"Creditable service." "(9) 'Creditable service' shall mean prior service plus membership as provided in Section 5 *of Chapter 87, Laws of Montana, 1937, as amended by this act and designated herein as Section 3.*

"Beneficiary." "(10) 'Beneficiary' shall mean any person in receipt of a pension, annuity, a retirement allowance, or other benefit as provided by this act.

"Regular interest." "(11) 'Regular interest' shall mean interest at four per centum per annum compounded annually, or at such other rate as may be set by the retirement board in accordance with Subsection (2) of Section 7 of this act.

"Accumulated contributions." "(12) 'Accumulated contributions' shall mean the sum of all the amounts deducted from the compensation of a member *or paid by a member as provided for in Subsection (2) of Section 5 of Chapter 87, Laws of Montana, 1937, as amended by this act and designated herein as Section 3,* and credited to his individual account in the annuity savings fund, together with interest. Regular interest shall be computed and allowed on such total or part

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thereof when used to provide a benefit at the time of retirement. Interest at the rate of three-fourths the regular rate shall be computed and paid on such total amounts or part thereof when withdrawn for any other purpose.

"Earnable compensation."

"(13) 'Earnable compensation' shall mean the full rate of the compensation, pay or salary that would be payable to a teacher if he worked the full normal working time except that any compensation in excess of two thousand dollars ($2,000) per annum shall be used as two thousand dollars ($2,000) for the purpose of this system. In cases where compensation includes maintenance, the retirement board shall fix the value of that part of the compensation not paid in money.

"Average final compensation."

"(14) 'Average final compensation' shall mean the average annual compensation, pay or salary earnable by a member during his last ten years of service as a teacher.

"Medical board."

"(15) 'Medical board' shall mean the board of physicians provided for in Section 3 of this act.

"Annuity."

"(16) 'Annuity' shall mean payments for life derived from the accumulated contributions of a member as provided in this act. All annuities shall be paid in equal monthly installments.

"Pensions."

"(17) 'Pensions' shall mean payments for life derived from money provided by the employer as defined in this act. All pensions shall be paid in equal monthly installments.

"Retirement allowance."

"(18) 'Retirement allowance' shall mean the annuity plus the pension.

"Annuity reserve."

"(19) 'Annuity reserve' shall mean the present value of all payments to be made on account of a member's annuity granted under the provisions of this act, computed upon the basis of such mortality tables as shall be adopted by the retirement board and regular interest.

"Pension reserve."

"(20) 'Pension reserve' shall mean the present value of all payments to be made on account of a pension granted under the provisions of this act, computed on the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

"Actuarial equivalent."

"(21) 'Actuarial equivalent' shall mean a benefit of equal value when computed upon the basis of such mortality

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tables as shall be adopted by the retirement board and regular interest.

"(22) 'Former retirement system' shall mean the retirement system established under Sections 1113 to 1132 inclusive, of the Revised Codes of Montana, 1935". "Former retirement system."

Section 2. That Section 4 of Chapter 87 of the laws of the twenty-fifth legislative assembly, be, and the same is hereby amended to read as follows: Sec. 4, ch. 87, laws of 1937, amended.

"Section 4. **Membership.** Membership.

"(1) The membership of the retirement system shall consist of the following:

"(a) All persons who were teachers in the public *elementary and high* schools of the State during the school year nineteen hundred and thirty-six to nineteen hundred and thirty-seven, and who continue to be teachers shall become members as of the date of establishment except that any such teacher may notify the board on or before the thirtieth day of November, nineteen hundred and thirty-seven, in such form as the board may prescribe, that he does not desire to become a member, and in such case the board shall exclude him from the membership. Teachers in public elementary and high schools.

"(b) *All persons who were teachers in the University of Montana during the school year nineteen hundred and thirty-eight to nineteen hundred and thirty-nine, and who continue to be teachers shall become members as of the first day of September nineteen hundred and thirty-nine, except that any such teacher may notify the board on or before the thirtieth day of November, nineteen hundred and thirty-nine in such form as the board may prescribe, that he does not desire to become a member, and in such case the board shall exclude him from the membership.* Teachers in the university of Montana.

"(c) All persons who become teachers or re-enter the teaching service *in the public elementary or high schools* on or after the first day of September, nineteen hundred and thirty-seven, *and all persons who become teachers or re-enter the teaching service in the University of Montana on or after the first day of September, nineteen hundred and thirty-nine,* shall become members of the retirement system by virtue of their appointment as teachers. Persons entering or re-entering teaching service.

"(d) A teacher *in the public elementary or high schools* who shall elect not to become a member as provided in Subdivision (a) of this Subsection, may thereafter apply Teachers who previously elected not to become members.

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for and be admitted to membership, but no such teacher shall receive prior service credit unless he becomes a member before the first day of September, nineteen hundred and thirty-eight.

"(e) *A teacher in the University of Montana who shall elect not to become a member as provided in Subdivision (b) of this Subsection may thereafter apply for and be admitted to membership, but no such teacher shall receive prior service credit unless he becomes a member before the first day of September, nineteen hundred and forty.*

Matters in discretion of the retirement board.

"(2) The retirement board may in its discretion deny the right to become members to any class of teachers whose compensation is only partly paid by the employer, or who are serving on a temporary or any other than a per annum basis, and it may also in its discretion make optional with members in any such class their individual entrance into membership.

Membership ceases, when.

"(3) The membership of any person in the retirement system shall cease if he shall be continuously absent without pay for a period of more than three years or if in any period of ten consecutive years after he last became a member he shall render less than five years of service as a teacher or if he withdraws his accumulated contributions or retires on a pension or dies, but not otherwise, except that the membership of a teacher who has not withdrawn his contributions and who has not had sufficient service to be eligible for disability retirement shall not be cancelled, provided the member shall prove to the satisfaction of the retirement board that absence from service was caused by personal illness constituting disability.

Statement to be submitted by school trustees and executives of divisions of university.

"(4) It shall be the duty of each board of school trustees *and of the chief executive of each institution, station or division of the University of Montana* employing teachers subject to the provisions of this act to submit to the retirement board a statement showing the name, title, compensation, duties, date of birth, and length of service of each teacher employed in such schools and such other information regarding such teachers as the retirement board may require."

Sec. 5, ch. 87, laws of 1937, amended.

Section 3. That Section 5 of Chapter 87 of the laws of the twenty-fifth legislative assembly, be, and the same is hereby amended to read as follows:

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"Section 5. **Membership Application and Creditable Service.**

Membership application and creditable service.

"(1) Under such rules and regulations as the retirement board shall adopt, each teacher upon becoming a member shall file with the retirement board an application showing his date of birth, and such other necessary information as the retirement board may require for the proper operation of the retirement system. If a member was a teacher *in the public elementary or the high schools* during the school year immediately preceding the establishment of the retirement system, and becomes a member before the first day of September, nineteen hundred and thirty-eight, *and if a member was a teacher in the University of Montana during the school year nineteen hundred and thirty-eight to nineteen hundred and thirty-nine, and becomes a member before the first day of September, nineteen hundred and forty,* he shall itemize on such application all services as a teacher rendered prior to the date of establishment, including service in a similar capacity in other states rendered by him prior to the first day of September, nineteen hundred and thirty-seven, for which he claims credit.

Member to file application with retirement board.

"(2) *Any member who was a teacher in the University of Montana during the school year nineteen hundred and thirty-eight to nineteen hundred thirty-nine and becomes a member before the first day of September, nineteen hundred and forty, shall be allowed upon application to the retirement board, credit for prior service for either the school year nineteen hundred and thirty-seven to nineteen hundred thirty-eight, or the school year nineteen hundred and thirty-eight to nineteen hundred and thirty-nine, or for both of these years, provided (a) that he make application to the retirement board prior to the first day of September, nineteen hundred and forty; and (b) that he was a teacher in the University of Montana during the school year or years for which he makes application for such credit; and (c) that he contributes to the retirement fund an amount equal to the contribution that would have been necessary if he had been a member during the school year or years for which he makes application for such credit; and (d) that he completes the payment of such contribution before the first day of September, nineteen hundred and forty-one. The amount contributed by a*

Credit for prior service to teachers in the university.

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member in accordance with this Subsection shall be credited to his individual accounts in the annuity savings fund.

Computation of service and average compensation.

"(3) The retirement board shall fix and determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in computing such service or in computing average compensation, it shall credit no period of more than a month's duration, during which a member was absent without pay, nor shall more than one year of service be credited for all service in any school year.

Verfication of statement submitted.

"(4) Subject to the above restrictions and to such other rules and regulations as the retirement board shall adopt, said board shall verify as soon as practicable the statement of service submitted.

"(5) Upon verification of the statement of service submitted, the retirement board shall issue to each member who was a teacher *in the public elementary or the high schools* during the school year immediately preceding the date of establishment of the retirement system and becomes a member before the first day of September, nineteen hundred and thirty-eight, *and to each member who was a teacher in the University of Montana during the school year nineteen hundred and thirty-eight to nineteen hundred and thirty-nine, and becomes a member before the first day of September, nineteen hundred and forty,* a

Prior service certificate.

prior service certificate certifying to the aggregate length of prior service as a teacher and to the aggregate length of such service in a similar capacity outside of the State for which the member is entitled to credit. In such prior service certificate, the member shall be credited up to the nearest number of years and months with all service as a teacher prior to September 1, 1937, and with all service not exceeding ten years in a similar capacity in other states, *and with all service for which credit* is allowable as provided in Subsection (2) of this Section.

"(6) So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service unless thereafter modified by the retirement board upon application made by the member within one year after the date of issuance or modification of a prior service certificate or upon the discovery by the retirement board of an error or fraud. When membership ceases such certificate shall be void. Should membership be

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resumed by the teacher, such teacher shall enter the system as a teacher not entitled to prior service credit, except as provided by Subdivision (7) of Section 6 of this act.

"(7) At retirement the creditable service of a member on which his retirement allowance shall be based, shall consist of the membership service rendered by him since he last became a member and also if he has a prior service certificate, which is in full force and effect, the service certified on his prior service certificate.

Service as basis of retirement allowance.

Section 4. Members who are teachers in the University of Montana shall not be entitled to the benefits as provided for in Section 6, Chapter 87 of the laws of the twenty-fifth legislative assembly of the State of Montana, prior to July 1, 1941; but shall be entitled to such benefits thereafter.

Teachers in university allowed what benefits.

Section 5. This act shall take effect and be in full force and effect from and after its passage and approval.

Effective date.

Section 6. All acts and parts of acts in conflict herewith, hereby are repealed.

Repealing clause.

Approved March 17, 1939.

CHAPTER 216

An Act to Amend Section 11688, of the Revised Codes of Montana of 1935, Relating to the Filing of an Accusation Against District, County, Township, or Municipal Officers or School Trustees.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 11688 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 11688, R. C. 1935, amended.

"Section 11688. An accusation in writing against any district, county, township, or municipal officer *or school trustee,* for wilful or corrupt misconduct or malfeasance in office, may be presented by the grand jury, *or filed by the county attorney,* of the county for which the officer accused is elected or appointed, *or an accusation may be filed by the attorney general.*"

Who may file accusation.

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Repealing clause.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 217

An Act Providing for the Enactment of a New Section to Be Designated as Section 1010-A, Revised Codes of Montana, 1935, to Amend Section 1013, Revised Codes of Montana, 1935, Providing for the Enactment of a New Section to Be Designated Section 1262.44-A Revised Codes of Montana, 1935, and to Amend Sections 1262.81 and 1263.8, Revised Codes of Montana, 1935, All Relating to the Attendance at School of Elementary and High School Pupils Outside of the School Districts and Counties in Which They Reside, Providing for Payment for Transportation or Board, Rent or Tuition for Such Pupils and for Transfer of Budget Appropriations and Apportionments to the School Districts in Which They Attend School.

Be it enacted by the Legislative Assembly of the State of Montana:

New section.

Section 1. That there be and hereby is enacted a new section to be designated as Section 1010-A, Revised Codes of Montana, 1935, which shall read as follows:

Attendance of elementary school pupil at school outside of state.

"1010-A. *Attendance of Elementary School Pupil at School Outside of State.* When the board of trustees of any school district shall deem it for the best interests of any pupil or pupils residing in such school district to attend an elementary school in some school district in a county situated in another state, and which school district adjoins the school district in which such pupil or pupils reside, and written consent thereto has been given by the county superintendent of schools of the county in which such pupil or pupils reside in accordance with the provisions of Section 1013, such board may expend any moneys belonging to their district for the purpose of either paying for the transportation of such pupil or pupils from their homes to the school in the district in the other state which

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is to be attended, or for board, rent or tuition for such pupil or pupils while actually attending such school, in the same manner and to the same extent as such money might be expended for transportation, board, rent or tuition of such pupil or pupils if permission were given for attending an elementary school in another school district in the county in which such pupil or pupils reside in accordance with the provisions of Section 1010."

Sec. 1013, R. C. 1935, amended.

Section 2. That Section 1013, Revised Codes of Montana, 1935, be, and is hereby amended to read as follows:

Transfer of apportionment.

"1013. *Transfer of Apportionments. Children may attend elementary schools in districts in the county outside of the district in which they reside, or in a district in an adjoining county, or in a district in a county in another state when the district in such other state adjoins the district in which they reside,* when written *permission is secured from* the board of trustees of the district in which they are to attend school *and when* written *permission has been given by* the county superintendent of schools of the county in which the children reside. *All such permits shall expire at the end of the school year. When any child is given such written permission as herein provided to attend school in any school district the county superintendent shall immediately after giving such written permission, give the county treasurer written notice thereof, in which shall be stated the name of the child to whom such permission is given, the district in which the child resides and the district in which such child is to attend school under such permission,* and the county treasurer shall, *whenever any apportionments of school moneys are made in such county during the school year,* transfer to the district *in which such children are attending school under such permission* all moneys due by apportionment to them."

New section.

Section 3. That there be and hereby is enacted a new section to be designated as Section 1262.44-A and which shall read as follows:

"1262.44-A. Whenever any eligible high school pupil has been authorized to attend a high school situated in a county in another state and which county adjoins the county in which such high school pupil resides, as provided in Section 1262.81, the board of trustees of the county high school, if there be a county high school for the county in which the pupil resides, or if there be no such county

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Transportation or board, etc. of pupil attending high school in adjoining county of another state.

high school then the board of trustees of the school district in which such pupil resides, may expend any moneys belonging to the county high school, or school district, as the case may be, for the purpose of either paying for transportation of such pupil from the home of such pupil to the high school in the other state which is to be attended, or for board, rent or tuition for such pupil while actually attending such school, in the same manner and to the same extent as such money might be expended for transportation, board, rent or tuition of such pupil if permission were given for attending a high school in another district in the county in which the pupil resides in accordance with the provisions of Section 1262.44."

Sec. 1262.81, R. C. 1935, amended.

Section 4. That Section 1262.81, Revised Codes of Montana, 1935, be, and is hereby amended to read as follows:

Attendance outside of county of pupil's residence.

"1262.81. *Attendance Outside of County of Pupil's Residence—Transfer of Apportionments.* The attendance of any eligible high school pupil at an accredited high school outside of the county of his residence, *either within or without the state, must* be authorized by the county superintendent of schools of the county of his desidence, when *proper application has been made by the parent or guardian on or before September 1. No payment shall be made for attendance in another state except where such attendance is in a public elementary or secondary school in a county adjacent to the county of the student's residence.*

Transfer of apportionments.

After the budget for high school pupils authorized to attend high school outside of the counties in which they reside has been adopted by the county superintendent of schools, as provided in Section 1263.8, the county superintendent of schools in which any such high school pupils resides, shall immediately give to the county treasurer written notice setting forth the names of the high school pupils authorized to attend high school outside of the county, with the name of the high school and the county in which situated which each such pupil has been authorized to attend, with the amount appropriated in such budget for each such pupil. The county treasurer shall, in the months of December and June in each school year, and immediately after the apportionment of the high school tax levy fund has been made, transmit to the county treasurer of each county in which any such high school pupil has

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been authorized to attend high school the amount apportioned for such high school pupil out of such fund together with the name of such high school pupil for whom the apportionment has been made and the county treasurer of the county receiving the same shall credit such amount to the proper fund of the high school which such pupil has been authorized to attend."

Sec. 1263.8 R. C. 1935, amended.

Section 5. That Section 1263.8, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Budgeting for students attending high school outside of county or placed in state institutions.

"1263.8. *Budgeting for Students Attending High School Outside of County or Placed in State Institutions.* In counties where students attend a high school outside of the county of their residence, as provided in Section 1262.81, or have been placed in a state institution, it shall be the duty of the county superintendent of schools, on or before the third Monday in July, to prepare a budget *for an amount equal to the average amount budgeted per eligible high school pupil for maintenance and operating purposes, for all high schools with the county in which the pupil resides, in their annual final budgets for the school year immediately preceding, for each student whose attendance outside of his county has been authorized, or who is an inmate of a state institution. Such average amount per pupil shall be ascertained and determined by the county superintendent who shall divide the total amount budgeted for all eligible high school pupils within the county for maintenance and operating purposes during the preceding school year by the total number of high school pupils eligible for budgeting purposes for such year, as provided in Section 1263.5 and as such amounts and number of eligible pupils are shown by such high school budgets for such year; provided that the payment of tuition for pupils attending school in another state shall be in an amount per pupil which is the same as paid by such state for pupils attending like schools in Montana; provided further that the number of transfer pupils used for budgeting purposes shall be the number whose attendance was duly authorized by law for the year next preceding. Immediately after such budget has been prepared the county superintendent of schools preparing the same shall give written notice to the county superintendent of schools of each county in which any high school student has been*

Proviso.

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authorized to attend high school under the provisions of said Section 1262.81, which notice shall contain the name of each such student, the high school the student has been authorized to attend, and the amount budgeted for each such student under the provisions of this Section. Each county superintendent receiving any such notice shall, at the time of laying the preliminary high school budgets before the board of school budget supervisors of the county, also lay before the board all such notices received by such county superintendent. The board of school budget supervisors, when adopting and approving the final budget of a high school which any such student from outside of the county has been authorized to attend, as shown by such notice, or notices, shall add to Section II Part I of such budget an appropriation for such pupils from outside the county in such amounts as said notice or notices shows will be paid over to and received by such high school during the then current school year, and shall also add to Section XI Part II of such budget an additional item of estimated receipts showing the amount which it is estimated such high school will receive during the year for the students named in such notice or notices. The amount received, or to be received during any year by any high school in payment for students from outside of the county attending such high school shall not be taken into account nor included nor considered in any manner whatever for the purpose of determining the maximum budget which the high school may adopt under Section 1263.5.''

Adoption and approval of budget.

Repealing clause.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 218

An Act to Amend Sections 3154.1, 3154.2, 3154.3, 3154.4, 3154.5, 3154.6 and 3154.10 of the Revised Codes of Montana, 1935, Relating to the Practice of Chiropody or Podiatry, Creating a State Board of Chiropody Medical Examiners, Providing for the Examination and Licensing of Applicants to Practice Chiropody, and the

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Issuance, Revocation and Recordation of Licenses, Regulation of Said Practice, Providing Penalties for Violations of the Provisions of This Act and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3154.1 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Sec. 3154.1, R. C. 1935, amended.

"Section 3154.1. **Definitions.** *Chiropody (sometimes called podiatry)* shall, for the purpose of this act, mean the diagnosis, medical, surgical, *mechanical, manipulative and electrical* treatment of ailments of the human foot. *A chiropodist shall mean one practicing chiropody.*" Definitions "Chiropody."

Section 2. That Section 3154.2 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Sec. 3154.2, R. C. 1935, amended.

"Section 3154.2. **License—Amputations not Allowed.** It shall be unlawful for any person to profess to be a *chiropodist,* to practice or assume the duties incident to *chiropody, or to advertise in any form or hold himself out to the public as a chiropodist or podiatrist, or in any sign or advertisement to use the word chiropodist or podiatrist, foot correctionist, or any other term or terms, letters indicating to the public that they are holding themselves out as a chiropodist, or foot correctionist in any manner as defined in this act,* without first obtaining from the state board of *chiropody* medical examiners a license authorizing the practice of *chiropody* in this State, except as hereinafter provided. No *chiropodist* shall amputate the human foot or toe or toes, *or administer any anesthetic other than local.*" License. Amputations forbidden.

Section 3. That Section 3154.3 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Sec. 3154.3, R. C. 1935, amended.

"Section 3154.3. **Chiropody Examiners—Examinations — Qualifications — Schools — Fees — Non-resident Practitioners.** *There is hereby created a state board of chiropody medical examiners consisting of one physician to be selected at its annual meeting by the state board of medical examiners from its membership, the secretary of* Chiropody examiners.

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the state board of medical examiners, and two chiropodists to be selected and to serve as hereinafter provided. The Montana Association of Chiropodists shall select six chiropodists from its membership, who shall be residents of and shall have engaged in the active practice of chiropody for at least two years in this State, and shall be of high integrity and ability. Within thirty days from and after the selection of said six chiropodists as aforesaid, the

Governor to appoint three members to board.

governor of Montana shall appoint three of their number and so designate the term of office of each, that the term of office of one member shall expire in one (1) year, one in two (2) years, and one in three (3) years, from date of appointment; annually thereafter, the governor shall appoint one member who shall be a licensed chiropodist possessing the qualifications hereinbefore mentioned who shall serve for a period of three (3) years or until his successor shall have been appointed by the governor. Should any vacancy arise on aforesaid board before the expiration of the term of office of any of the chiropodist members of said board, such vacancy shall be filled by appointment by the governor within thirty days, such appointee to possess the qualifications heretofore stated, and to be selected from those remaining of the said six chiropodists theretofore selected by the Montana Association of Chiropodists unless said number of selected chiropodists shall have been exhausted. Examinations shall be held semi-annually at such

Examinations.

places and time as the state board of *chiropody medical examiners* shall direct. *On and after the date of the taking effect of this act, all persons who may wish to begin practice of chiropody in this State, shall make application upon a blank form authorized and furnished by said state board of medical examiners, for a license to practice chiropody. This application shall be granted to such*

Eligibility.

applicants, after they shall have furnished satisfactory proof of being at least twenty-one (21) years of age, of good moral character, of having attained high school graduation or its equivalent and of having had at least two years of instruction in an accredited school of chiropody recognized as being in good standing by the Montana board of *chiropody* medical examiners, but after *June 1st, 1941,* no school of *chiropody* shall be accredited by said board which does not require for graduation *four years of instruction in the study of chiropody.* However, all *chiropodists,* actively engaged in the practice of *chiropody*

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one or more years *and licensed by the state board of medical examiners,* prior to *April 1st, 1939, whether meeting these requirements or not,* shall, upon furnishing proof thereof to said *board of chiropody medical examiners* be entitled to a license without examination. A license without *written* examination may be issued to *chiropodists* of other states maintaining equal statutory requirements for the practice of *chiropody* and extending the same reciprocal privilege to this State *provided further that they have had a valid license for at least two years in that state prior to filing for reciprocal privilege, and by payment of fifty dollars ($50.00) to the state medical board fund.''*

Chiropodists from other states.

Section 4. That Section 3154.4 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 3154.4, R. C. 1935, amended.

"Section 3154.4. **Examination—Fees.** *From and* after the passage *and approval* of this act, any person not exempt from examination under Section 3154.3 and desiring a license to practice *chiropody* shall be examined in the following subjects: Anatomy, chemistry, dermatology, diagnosis, materia medica, pathology, physiology, therapeutics, clinical and orthopedic *chiropody, histology, bacteriology, pharmacy, neurology, surgery (minor), chiropody, foot orthopedica, shoe therapy, physiotherapy, roentgenology, hygiene, and sanitation, ethics and culture,* limited in their scope to the treatment of the human foot, and, if qualified, shall receive a license. The minimum requirements for a license shall be a general average of seventy-five per cent (75%) in all the subjects involved, and not less than fifty per cent (50%) in any one subject. *An* examination *and license fee of thirty-five dollars ($35.00)* shall be paid to the secretary of the state board of medical examiners. Any applicant failing in the examination and being refused a license shall be entitled within six months of such refusal to a re-examination, but *one* such *re-examination* shall exhaust his privilege under the original examination.''

Examination, in what subjects.

Fee.

Section 5. That Section 3154.5 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 3154.5, R. C. 1935, amended.

"Section 3154.5. **Designation of Licensees—Renewals—Re-issuance of License—Display of License Required—** *Recording Necessary. Every license issued hereunder* shall be designated as ''registered *chiropodist's license''*

Designation of licensees.

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and shall not *contain any abbreviations thereof, nor any other designation nor title except that a statement of limitation shall be contained in said license referring to the licensee as "registered chiropodist*—practice limited to the foot", *so as not to mislead the public in regard to their right to treat other portions of the body.* All licenses shall be recorded *by the secretary of the state board of medical examiners* in the manner of other medical licenses; *the person receiving such license shall have it recorded in the office of the county clerk in the county in which he or she resides, and the record shall be indorsed thereon. In case the person so licensed shall remove to another county to practice, the holder shall record the license in a like manner in the county into which he or she removed, and the county clerk is entitled to charge and receive the usual fee for making such record.* A renewal license fee of *three dollars ($3.00)* shall be paid annually on July 1st of each year, and if not paid within three months *thereafter,* the license shall be revoked and shall be re-issued *only* upon original application and payment of a fee of *thirty-five dollars ($35.00).* All licenses shall be conspicuously displayed *by said chiropodists* at their *offices* or other places of practice."

License to be recorded.

Fee for renewal license.

Sec. 3154.6, R. C. 1935, amended.

Section 6. That Section 3154.6 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 3154.6. **Refusal or Revocation of License.** The state board of *chiropody* medical examiners may, after due hearing, refuse to grant, revoke or renew any license provided for in this act to a person, otherwise qualified, who obtained said license by fraudulent *representation,* for incompetency in practice, for use of untruthful or improbable statements to patients or in his advertisements, for habitual intoxication or for unprofessional and immoral conduct, or for selling or giving away alcohol or drugs for any *illegal* purpose, but said board may re-issue a license after a lapse of six months, *if in its judgment such act or acts, conditions and/or conditions of disqualification shall have been remedied."*

Refusal or revocation of license.

Sec. 3154.10 R. C. 1935, amended.

Section 7. That Section 3154.10 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

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"Section 3154.10. **Application of Act.** This act shall not apply to any physician licensed to practice his profession in this State, nor *to surgeons* of the United States army, navy and/or United States public health service, when in actual performance of their duties." Application of act.

"Section 8. Nothing in this act shall be construed as prohibiting the fitting, recommending, advertising, adjusting or the sale of corrective shoes, arch support, or similar mechanical appliances or foot remedies by retail dealers or manufacturers." Construction of act.

Section 9. All acts and parts of acts in confilct herewith are hereby repealed. Repealing clause.

Approved March 17, 1939.

CHAPTER 219

An Act to Amend Section 10068 of the Revised Codes of Montana, 1935, Relating to the Order of Persons Entitled to Administer an Estate of All Persons Dying Intestate, in the Order in Which They Are Respectively Entitled Thereto and Providing That a Surviving Partner Cannot Be Appointed Administrator of the Estate.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 10068 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 10068, R. C. 1935, amended.

"10068. **Order of Persons Entitled to Administer—Partner not to Administer.** Administration of estate of all persons dying intestate must be granted to some one or more of the persons hereinafter mentioned, and they are respectively entitled to preference thereto in the following order: Order of persons entitled to administer.

1. The surviving husband or wife, or some competent person whom he or she may request to have appointed.
2. The children.
3. The father or mother.
4. The brothers.

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5. The sisters.

6. The grandchildren.

7. The next of kin entitled to share in the distribution of the estate.

8. The public administrator.

9. A creditor.

10. Any person legally competent.

Partner forbidden to administer.

If the decedent was a member of a partnership at the time of his decease, the surviving partner must in no case be appointed administrator of the estate."

Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 17, 1939.

CHAPTER 220

An Act to Amend Sections 2815.17 and 2815.25 of the Revised Codes of Montana of 1935, Being a Part of the Montana Beer Act, and to Supplement Said Act With Two New Sections Relating Respectively to the Procedure in Case of Failure of Brewers or Wholesalers to Make Returns or Pay Beer Tax and the Creation of a Lien Therefor and the Manner of Foreclosure and Release Thereof, and to Returns by Railroads and Motor Carriers on Beer Manufactured Out of the State and by Them Transported Into and Delivered in This State.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2815.17, R. C. 1935, amended.

Section 1. That Section 2815.17 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Penalty for brewer's failure to file statement.

"Section 2815.17. **Penalty for Brewers' Failure to File Statement.** *Any such tax not paid within the time herein provided for shall be delinquent and a penalty of five per cent (5%) thereof shall be added thereto and the whole*

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thereof shall bear interest at the rate of one per cent (1%) per month from the date of delinquency until paid, and any brewer who *fails, neglects or refuses to make the return to the board provided for in Section 2815.16 hereof,* or refuses to allow such examination, as provided for in Section 2815.16 hereof, or fails to make an accurate return according to the manner prescribed, shall be *deemed guilty of having committed a misdemeanor and upon conviction thereof shall be fined in an amount* not exceeding one thousand dollars ($1,000.00)."

Sec. 2815.25, R. C. 1935, amended.

Section 2. That Section 2815.25 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 2815.25. **Penalty for Wholesalers' Failure to File Statement—Payment of Tax.** With such return, the said wholesaler shall pay to the board the amount of tax upon all beer not manufactured in this State, on the basis hereinafter provided, which shall have been sold by him during such previous month. *Any such tax not paid within the time herein provided for shall be delinquent and a penalty of five per cent (5%) thereof shall be added thereto and the whole thereof shall bear interest at the rate of one per cent (1%) per month from the date of delinquency until paid,* and any wholesaler *who fails, neglects or refuses to make the return to the board provided for in Section 2815.24 hereof,* or refuses to allow such examination as provided for in Section 2815.24 hereof, or fails to make an accurate return according to the manner prescribed, shall be *deemed* guilty of *having committed a misdemeanor and upon conviction thereof shall be fined in an amount* not exceeding one thousand dollars ($1,000.00)."

Penalty for wholesaler's failure to file statement.

Section 3. If any brewer subject to the payment of the tax provided for in Subdivision (3) of Section 2815.22 hereof or any wholesaler subject to the payment of the tax provided for in Section 2815.29 hereof, shall fail, neglect or refuse to make any return required by Montana beer act, or shall fail to make payment of such tax within the time herein provided, the board shall, forthwith after such time has expired, proceed to inform itself as best it may regarding the matters and things required to be set forth in such return and from such information as it may be able to obtain, to make a statement showing such matters and things and determine and fix the

Board to make statement and fix tax, when.

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amount of such tax due the state from such delinquent brewer or wholesaler and shall add thereto a penalty of five per cent (5%) thereof for the first failure, wilful neglect or refusal; ten per cent (10%) for the second; fifteen per cent (15%) for the third; and twenty-five per cent (25%) for the fourth, and each subsequent failure, neglect or refusal, which shall be in addition to the five per cent (5%) penalty hereinbefore provided for non-payment of such tax within the time hereinbefore provided. Said tax and the penalties added thereto shall bear interest at the rate of one per cent (1%) per month from the date such returns should have been made and said tax paid. The board shall then proceed to collect such tax with penalties and interest. Upon request of the board it shall be the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction an action to collect such tax. All taxes due from any brewer or wholesaler under the provisions of Montana beer act, together with all penalties and interest thereon, shall be a lien upon any and all property of such brewer or wholesaler upon the filing by the board of a duplicate copy of the statement so made by the board, or a certified copy of any return filed with said board, in the office of the county clerk of the county where such property is situated, which lien shall have precedence over any other claim, lien or demand thereafter filed or recorded and may be enforced in the name of the State of Montana in the same manner as other liens are enforced by law. No action shall be maintained to enjoin the collection of such tax or any part thereof. When the amount due the State is paid in full and before the entry of foreclosure decree, the board shall release the said lien by filing in the office of the county clerk wherein is filed the said lien a written release thereof. At any time prior to the payment of said taxes, penalty and interest, before the entry of foreclosure decree, the board may release from the operation of said lien a part of said property to enable the brewer or wholesaler to mortgage, sell or otherwise dispose of the same in order to procure funds with which to pay said taxes, penalty and interest, provided there remains, in the judgment of the board, sufficient property subject to said lien to insure the payment of the whole of said unpaid taxes, penalty and interest.

Penalty for delinquency.

Tax lien.

Partial release of lien.

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Carriers to make monthly returns of amount of beer imported.

Section 4. Every railroad and every motor carrier transporting beer manufactured out of this State from points without this State and delivering the same to points within this State shall, on or before the fifteenth day of each month, make an exact return to the board of the amount of such beer so transported and delivered by such railroad or motor carrier during the previous month, and shall state in such return the name and address of the consignor, the name and address of the consignee, the date of delivery, and the amount delivered.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 6. This act shall be in full force and effect thirty (30) days from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 221

An Act to Amend Sections 4, 5 and 11 of Chapter 84, Laws of the Twenty-fifth Legislative Assembly of the State of Montana, Relating to the Regulating, Licensing and Sale of Liquor at Retail in the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4, Ch. 4, Laws 1937, amended.

Section 1. That Section 4 of Chapter 84 of the laws of the twenty-fifth legislative assembly of the State of Montana, be, and the same is hereby amended to read as follows:

Amount of license fees.

"Section 4. Each licensee licensed under the provisions of this act shall pay an annual license fee as follows:

"(a) Except as hereinafter provided, for each license outside of cities, towns and villages, or in cities, towns or villages with a population of less than two thousand (2,000), two hundred dollars ($200.00) per annum;

"(b) Except as hereinafter provided, for each license in cities with a population of more than two thousand (2,000) and less than five thousand (5,000), three hundred dollars ($300.00) per annum;

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"(c) Except as hereinafter provided, for each license in cities with a population of more than five thousand (5,000) and less than ten thousand (10,000), or within a distance of five (5) miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, four hundred fifty dollars ($450.00) per annum;

"(d) For each license in cities with a population of ten thousand (10,000) or more, or within a distance of five (5) miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, six hundred dollars ($600.00) per annum;

Fee for railway system.

"(e) For each railway system in the State of Montana, three hundred dollars ($300.00) per annum;

"Fraternal organization" and "club" defined.

"(f) For each fraternal organization or club, one hundred dollars ($100.00) per annum, provided, however, that the term 'fraternal organization' as here used, shall include only those lodges and associations having a known and defined existence; and provided, however, that the term 'club' as here used, shall mean an association of persons for the promotion of some common object other than the sale of liquor, with a permanent membership into which admission cannot be obtained by any person at his pleasure and which is primarily operated for the benefit of its members and not for the gain or profit of its operators; and provided, further, that it shall be unlawful for any fraternal organization or club to sell or serve liquor to the public as a commercial business and the board may at any time require such fraternal organization or club to furnish evidence of its bona fide existence and may refuse or suspend a license if it is found that such applicant or licensee does not conform or is not conforming to this act.

"The license fees herein provided for are exclusive of and in addition to other license fees chargeable in the State of Montana for the sale of liquor, beer and malt beverages.

Federal census as basis for determination of population.

"The census taken under the direction of congress of the United States in the year nineteen hundred and thirty, and every ten years thereafter, shall be the basis upon which the respective populations of said municipalities shall be determined, unless a direct enumeration of the

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inhabitants thereof be made by the state or municipal corporation, in which case such later direct enumeration shall constitute such basis, provided, however, that no census hereafter taken shall be such basis until it shall have been published under the authority under which the same shall be taken, and then its effect shall from the date of such publication be prospective only and provided, further, that none of the provisions of this act shall be deemed to operate retroactively.''

Sec. 5, Ch. 84, Laws 1937, amended.

Section 2. That Section 5 of Chapter 84 of the laws of the twenty-fifth legislative assembly of the State of Montana, be, and the same is hereby amended to read as follows:

''Section 5. *Prior to the issuance of a license by the Montana liquor control board, any applicant for such license shall have first appeared before the licensing authority of the incorporated city or town in which the premises are to be licensed, or if such premises are situate outside of the boundaries of an incorporated city or town, the applicant for a license shall have appeared before the county commissioners of the county in which the premises are to be licensed, and from such authorities receive written approval of the application for license; whereupon the applicant shall file such written approval, properly authenticated by such city licensing authorities or board of county commissioners, along with an application in writing, to the Montana liquor control board,* signed by the applicant, and containing such information and statements relative to the applicant and the premises where the liquor is to be sold, as may be required by the Montana liquor control board. The application shall be verified by the affidavit of the person making the same before a person authorized to administer oaths. If any false statement is made in any part of said application, the applicant, or applicants, shall be deemed guilty of misdemeanor and upon conviction thereof the license, if issued, shall be revoked and the applicant, or applicants, subjected to the penalties provided by law.

Applicant for license required to have prior approval by local authorities.

Penalty for false statement.

''And provided that nothing herein shall be construed as granting any additional powers to any city or county licensing board relating to the limitations of this act not herein expressly conferred.''

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Sec. 11, Ch. 84, Laws 1937, amended.

Section 3. That Section 11 of Chapter 84 of the laws of the twenty-fifth legislative assembly of the State of Montana, be, and the same is hereby amended to read as follows:

Sale of liquor, beer or wine to what persons forbidden.

"Section 11. No licensee *or his or her employee or employees* shall sell, deliver, or give away or cause or permit to be sold, delivered or given away any liquor, *beer or wine* to:

1. *Any person under the age of twenty-one (21) years.*

2. Any intoxicated person or any person actually, apparently or obviously intoxicated.

3. A habitual drunkard.

4. An interdicted person.

Penalty for misrepresentation.

5. *Any minor, Indian or other person who knowingly misrepresents his or her qualifications for the purpose of obtaining liquor, beer or wine from such licensee shall be equally guilty with said licensee and shall, upon conviction thereof, be subject to the penalty provided in Section 38 of this act.*"

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

CHAPTER 222

An Act to Amend Sections 3228.1, 3228.2, 3228.3, 3228.4, 3228.5, 3228.7, 3228.8, 3228.9, 3228.10, 3228.11, 3228.13, 3228.15, 3228.16, and 3228.17 of the Revised Codes of Montana of 1935, Regulating the Occupation of Hairdressers and Cosmetologists, and Establishing the Requirements for Obtaining a License to Practice or Teach Cosmetology, and the Regulation of Schools of Cosmetology, Providing and Prescribing the Powers of the State Board of Beauty Culture.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3228.1 R. C. 1935, amended.

Section 1. That Section 3228.1 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

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"Section 3228.1. **License Required to Practice or *Teach Cosmetology and Provision for Registration of Schools of Cosmetology.*** That on and after the date on which this act goes into effect, no person shall practice or teach cosmetology *without a license* and no place shall be used or maintained for the teaching of cosmetology, for compensation, except under a *certificate of registration* issued in compliance with the requirements of this act."

License to teach or practice cosmetology.

Registration of schools.

Section 2. That Section 3228.2 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3228.2, R. C. 1935, amended.

"Section 3228.2. **Definition.** The practice and teaching of cosmetology is defined to be and includes any or all work generally and usually included in the term 'hairdressing' and 'beauty culture' and performed in so-called hairdressing and beauty shops, *or by itinerant cosmetologists,* which work is done for the embellishment, cleanliness and beautification of the hair, scalp, face, arms or hands. *Provided, however, that itinerant cosmetologists shall not be construed to include itinerant cosmetologists who perform their services without compensation for demonstration purposes, in any regularly established store or place of business, holding a license from the State of Montana as such store or place of business."*

Definition.

Exception as to certain itinerant cosmetologists.

Section 3. That Section 3228.3 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3228.3, R. C. 1935, amended.

"Section 3228.3. **Requirements for Practicing or Teaching Cosmetology** *or Operating a School of Cosmetology.* Before anyone may practice or teach cosmetology, *or any person, firm, or co-partnership, or corporation may operate a school of cosmetology,* such person, *firm, or co-partnership or corporation must obtain a license or certificate of registration from the state board as hereinafter provided. To be eligible to take the examination to practice cosmetology, the applicant must be not less than eighteen (18) years of age and a graduate of the eighth grade school, and must be of good moral character. Such applicant must have completed a continuous course of study of at least two thousand (2,000) hours in an accredited beauty school, which course of study has been distributed over a period of not less than ten (10) months or more than twelve (12) months, and has received a diploma from said*

Eligibility of applicants for examination.

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beauty school. Such person so qualified must file with the secretary of the state board, a written application to take such examination accompanied by a health certificate issued by a registered, licensed physician on a form supplied by the state board, and shall deposit with the secretary of the said board, the required examination fee and pass an examination as to his or her fitness to practice cosmetology. Before an applicant may take an examination to obtain a license as a teacher of cosmetology, he or she must have a diploma from an accredited beauty school, and must also have a license to practice cosmetology, and must show that he or she has been actively engaged as a beauty operator for three (3) continuous years prior to taking said teachers' examination. Said applicant must qualify by filing an application as prescribed by the board and by taking and passing such examination as prescribed and given by the state board before a license shall issue. Such license must be renewed annually as herein provided.

Applicants for license as teachers.

"Provided, however, that the state board may issue apprentice licenses to applicants who are at least eighteen (18) years of age, high school graduates and of good moral character. Such applicants must register with the secretary of the state board before commencing the apprenticeship upon such form as the state board shall prescribe for such apprenticeship license. Such apprentice, after two (2) continuous years under a licensed cosmetologist, must take the state board examination for an operator's license. Provided, however, the board shall not issue more than one (1) apprenticeship license to a licensed beauty shop, excepting such shops as have five (5) or more licensed operators, in which case the number of apprentices shall be limited to one (1) apprentice for every five (5) operators or a fraction thereof.

Apprentice license.

"Provided, further, the board may grant to graduates of accredited schools of this State upon the payment of a fee of two dollars ($2.00) a temporary license authorizing such graduates to practice as an operator under the supervision of a licensed cosmetologist, in the practice of hairdressing and beauty culture, for a period of not to exceed ninety (90) days, or until the next examination is held by the board. No such temporary license shall be issued except upon the presentation by the applicant of a certificate of graduation from a registered school of the State of

Temporary license to graduates as operators.

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Montana, and such temporary licenses shall not be renewable.

Certificate of registration of schools.

"No person, firm, or co-partnership, or corporation shall operate a school for the purpose of teaching cosmetology for compensation unless a certificate of registration has been first obtained from the state board. Application for such certificate shall be filed with such board on such form as the board shall prescribe.

Requirements for certification.

"No school for teaching cosmetology shall be granted a certificate of registration unless it complies, or can comply, with the following requirements:

To employ licensed teacher.

"(1) Have in its employ a licensed teacher who shall be, at all times, in the immediate supervision of the work of said school, or such other teachers as the state board may determine is necessary for the proper conduct of said school. Provided, however, that there shall not be more than twenty-five (25) students to each such teacher.

Equipment.

"(2) It shall possess such apparatus and equipment as the state board may determine is necessary for the ready and full teaching of all subjects or practices of cosmetology.

School term.

"(3) It shall maintain a school term of not less than two thousand (2,000) hours extending over a period of ten (10) consecutive months, and shall prescribe a course of practical training and technical instructions equal to the requirements for state board examinations, which course of training and technical instruction shall be prescribed by the state board.

Attendance record.

"(4) It shall keep a daily record of the attendance of each student, establish grades, and hold examinations before issuing diplomas.

Sanitation.

"(5) No owner, or person in charge of a school of cosmetology shall permit any person to sleep in or use for residential purposes, or any other purpose which would tend to make the room unsanitary, any room used, wholly or in part for a school of cosmetology.

Revocation of certificates.

"(6) Certificates of registration may be refused, revoked, or suspended, as provided in Section 3228.11, hereof.

Board has power to prescribe rules and regulations.

"(7) The state board shall have the power to prescribe such further rules and regulations as they deem necessary for the proper conduct of schools of cosmetology.

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Licensee suffering from communicable disease.

"If a *licensee* shall contract a communicable disease, endangering the public health, the board shall, upon proof of same, cancel or suspend *his or her license* until such time as said licensee can secure a physician's certificate *showing that such licensee is free from communicable disease.*"

Sec. 3228.4, R. C. 1935, amended.

Section 4. That Section 3228.4 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Creation of state examining board of beauty culturists.

"Section 3228.4. **Creation of State Examining Board of Beauty Culturists—Term—Appointment—Qualifications.** There is hereby created a state examining board which shall be called and styled 'the Montana state examining board of beauty culturists', consisting of three members, each of whom shall be a hairdresser or cosmetologist, to be appointed by the governor, from a list of six persons recommended by the *Montana State Hairdressers' Association.* Each *member hereinafter appointed shall serve four (4) years* and until his or her successor is appointed. *The members hereinafter appointed on said board must have been actively engaged in the profession of cosmetology for at least five (5) years prior to such appointment, and must have been a resident of the State of Montana for at least five (5) years prior to such appointment.* No two members of the said board shall be members of or affiliated with any school *of cosmetology.* The board hereby created shall be referred to hereinafter as the 'state board'. Said board shall adopt a seal to authenticate its acts."

Sec. 3228.5, R. C. 1935, amended.

Section 5. That Section 3228.5 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Annual meeting.

Officers.

"Section 3228.5. **Meeting—Officers to Be Selected.** The state board *shall annually, on or before the first of March of each year,* elect from their number a president, *vice-president,* and *secretary-treasurer.*"

Sec. 3228.7 R. C. 1935, amended.

Section 6. That Section 3228.7 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Certificates of Registration and licenses to those entitled.

"Section 3228.7. **Registration—Licenses.** If the board finds that an applicant for examination, *or for certificate of registration,* has *complied with the requirements of this act* and has paid the required fee, the board shall admit

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such applicant to examination and shall issue a license *or certificate of registration* to those who have successfully passed *such* examination *or are entitled to such certificate of registration in accordance with the provisions of this act.*"

Section 7. That Section 3228.8 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3228.8, R. C. 1935, amended.

"Section 3228.8. **Examinations.** Examinations *for operator's license* shall be held at least two times a year *and not more than five times a year and for teacher's license once each year,* at a place and time specified by said board. *Such examinations shall be conducted by said state board or by examiners appointed by a majority of said board for such purpose.* Such examiners shall have had at least three years practical experience and *shall be licensed cosmetologists* and shall not be connected with any school of cosmetology *in the State of Montana.* The examinations shall not be confined to any specific method or system.

Examinations for operator's license.

"Provided that physically handicapped persons trained for cosmetology under the state bureau of vocational rehabilitation shall, for a period of one year immediately following their graduation, be exempted from this examination and the fees described in Section 3228.15. Upon certification from the state supervisor of rehabilitation that a bureau beneficiary has successfully completed the required apprenticeship or training in a shop or beauty school, the secretary of the state board shall issue such person the necessary certificate or license to practice the profession in Montana."

Persons trained under state bureau of vocational rehabilitation.

Section 8. That Section 3228.9 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3228.9, R. C. 1935, amended.

"Section 3228.9. **Compensation of Members of Board.** Each member of the board shall receive, *as compensation for his or her services, the sum of* ten dollars ($10.00) for each *day's actual attendance at board meetings,* not to exceed three consecutive days, *and each member shall be reimbursed for his or her expenses necessarily incurred in the performance of his or her duties hereunder. All such compensation and necessary expenses shall be paid by the board out of the funds received by it and no part shall be*

Compensation of members of board.

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Salary of secretary of board.

paid by the State. The secretary of the state board shall receive an annual salary to be fixed by the board, and his or her necessary expenses actually incurred in the performance of official duties. *Such secretary shall not receive, in addition to the salary herein provided, the per diem herein provided for attendance at board meetings.* The state board may make reasonable provisions, for its expenses in the enforcement of this act, and for compensation and expenses of examiners; *provided, however, that no payments shall be made by the board except upon a verified claim filed with the board and approved by the majority thereof, and by warrants signed by the president and secretary-treasurer of the board.*"

Sec. 3228.10, R. C. 1935, amended.

Section 9. That Section 3228.10 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 3228.10. **Bond of** *Secretary*-**Treasurer.** The *secretary*-treasurer of said state board shall give a corporate surety bond payable to the board, in the sum of five thousand dollars ($5,000.00) approved by the said board, conditioned as the board may specify for the faithful performance of the duties of this office. Such bond shall have the oath of office endorsed thereon and shall be deposited with the president of the board, and kept in his or her office."

Bond of secretary-treasurer.

Sec. 3228.11, R.C.1935, amended.

Section 10. That Section 3228.11 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 3228.11. **Powers and Duties of the Board** *to Refuse, Revoke, or Suspend Licenses and the Procedure Therefor. The board shall have the power to refuse, refuse to renew, revoke, or suspend licenses as follows:*

Refusal, revocation and suspension of licenses.

"The board shall not issue, or having issued, shall not renew, or may revoke, or suspend, at any time any license as required by the provisions of this act, in any one of the following cases: (a) failure of a person, firm, co-partnership or corporation operating a cosmetological establishment or school of cosmetology to comply with the requirements of this act; (b) failure to comply with the sanitary rules, adopted by the board and approved by the state board of health, for the regulation of cosmetological establishments or schools of cosmetology; (c) gross malpractice;

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(d) continued practice by a person knowingly having an infectious or contagious disease; (e) habitual drunkenness, or habitual addiction to the use of morphine or any habit-forming drugs; (f) permitting a certificate of registration or license to be used where the holder thereof is not personally, actively, and continuously engaged in business; (g) failure to display the license; provided, however, that Proviso.
the said board shall not refuse to issue or renew any license as required by the provisions of this act, or revoke or suspend any such license already issued, except upon ten Written notice required to suspend license.
(10) days' notice in writing to the interested parties, which notice shall contain a brief statement of the reasons for the contemplated action of the board and designate a proper time and place for the hearing of all interested parties before any final action is taken as hereinafter provided; provided, however, that due notice within the provisions of this Section shall be deemed to have been given when the board shall have placed in a United States postoffice a copy of the notice as hereinabove provided, addressed to the designated or last known residence of the person applying for such license or to whom such license has already been issued; provided, further, that any person, firm, co- Proviso.
partnership or corporation whose license to do business as herein provided is revoked or suspended or who is refused a license or a renewal of a license already issued may commence an action in a court of competent jurisdiction against the state board of cosmetology for the purpose of cancelling or obtaining other relief from the act of the said board. All provisions of the code of civil procedure relating to pleadings, proofs, trials and appeals shall be applicable to such action."

Section 11. That Section 3228.13 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 3228.13, R. C. 1935, amended.

"Section 3228.13. **Inspector of Beauty Parlors—Salary and Expense.** The state board of health, *with the approval of the state board,* shall appoint and may remove one *or more inspectors* who *are* licensed to practice under this act, *each of whom* shall devote his *or her* time to inspecting beauty parlors and *performing* such other duties connected therewith *as the state board may direct. Such inspectors* may enter any beauty parlor or school of cosmetology during business hours for the purpose of inspection, *and the refusal of any licensee to permit such inspec-* Inspectors of beauty parlors.

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tion during business hours shall be cause for revocation of such license. The salary of such *inspectors* shall be fixed by the state board and *such* salary and *expenses* shall be paid out of the funds of the state board, *and not otherwise, upon the presentation of a verified claim as hereinabove provided.''*

Salary and expenses.

Sec. 3228.15, R. C. 1935, amended.

Section 12. That Section 3228.15 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 3228.15. **Fees.** Each applicant for examination to *practice or teach* shall pay, at the time of such application, a fee of *ten dollars ($10.00).* Each person *practicing cosmetology* as *an operator* shall pay a fee of five dollars ($5.00) for the issuance of a license, *and a further fee of five dollars ($5.00) annually for each renewal thereof. Each person teaching cosmetology shall pay a fee of five dollars ($5.00) for the issuance of a license, and the further sum of five dollars ($5.00) annually for each renewal thereof. Every person, firm, co-partnership, or corporation owning, operating, or conducting a school of cosmetology shall pay the sum of twenty-five dollars ($25.00) for a certificate of registration therefor, and pay the further sum of twenty-five dollars ($25.00) annually for each renewal thereof. Each applicant for apprentice license shall pay an annual fee of five dollars ($5.00). Each applicant for itinerant license as a cosmetologist, shall pay a fee of twenty-five dollars ($25.00). Such license fees shall be paid annually in advance to the secretary of the board.''*

Fees payable.

Sec. 3228.16, R. C. 1935, amended.

Section 13. That Section 3228.16 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 3228.16. **Duration and Renewal of Licenses** *and Certificates.* Licenses *and certificates* shall be issued for no longer than one year. All licenses *and certificates* shall expire on the 31st day of December next succeeding unless renewed for the next year. Licenses *and certificates* may be renewed by application made prior to the 31st day of December of each year, and the payment of a required renewal fee. Expired licenses *and certificates* may be renewed under special rules adopted by the board.''

Duration and renewal of licenses and certificates.

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Section 14. That Section 3228.17 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 3228.17, R. C. 1935, amended.

"Section 3228.17. **Penalties.** Any person or persons who shall practice, teach, or operate a school of *cosmetology or practice as an itinerant cosmetologist, as herein defined,* without having first obtained the license or *certificate of registration* as required, and without complying with *the provisions of this act,* shall be guilty of a misdemeanor. All fines and penalties shall be paid into the treasurers of the several counties for the use and benefit of the common school fund thereof." Penalties.

Section 15. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 16. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 17, 1939.

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APPROPRIATIONS,
MEMORIALS AND RESOLUTIONS

ENACTED BY THE

Twenty-sixth Legislative Assembly

STATE OF MONTANA

1939

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APPROPRIATIONS, MEMORIALS AND RESOLUTIONS

HOUSE BILL NO. 2

An Act to Appropriate Money for the Payment of Mileage and Per Diem to the Members of the Twenty-sixth Legislative Assembly and for the Payment of Per Diem to the Officers and Attaches and for Incidental Expenses of the Twenty-sixth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated, out of any money in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed, but for no other:

For the payment of mileage and per diem to the members of the twenty-sixth legislative assembly of the State of Montana, one hundred three thousand dollars.....$103,000.00

For the payment of per diem to the officers and attaches of the twenty-sixth legislative assembly of the State of Montana, forty-two thousand dollars.....$ 42,000.00

For the payment of incidental expenses of the twenty-sixth legislative assembly of the State of Montana, twenty thousand dollars.....$ 20,000.00

Section 2. Any amount or amounts remaining in any appropriation for the twenty-sixth legislative assembly may be transferred to supplement the amount or amounts remaining in any other appropriations for the twenty-sixth legislative assembly; provided, that the aggregate amount of all such appropriations shall be neither increased or decreased.

Section 3. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved January 6, 1939.

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HOUSE BILL NO. 140

An Act to Appropriate Money for the Operation and Maintenance and Other Purposes as Designated Herein for the Several Units of the Greater University of Montana, Known as the State University, Agricultural College, Experiment Station and Substations, Extension Service, School of Mines, State Normal College, Eastern Montana Normal School, and Northern Montana College and for Student Fare Refunds for the Period Beginning July 1, 1939, and Ending June 30, 1941.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one month, the payment of which is hereby made a proper charge from funds appropriated for "operation".

(2) The term "capital", unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event, shall the term "capital" mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term "repairs" means the amount to be paid for the repair of any capital asset, including buildings or lands.

(4) The term "replacements" means the amount to be paid for the replacing of any capital asset, as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original asset being worn out or broken.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses" means any expense, including salaries, capital, repairs and replacements and operation, as defined above.

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(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) When reference is made herein to any Chapter or Section of the Laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1939, and ending June 30, 1940.

STATE UNIVERSITY

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, two hundred eighty-four thousand five hundred dollars.....$284,500.00

For adjustment of employees salaries in the physical plant, two thousand dollars.....$ 2,000.00

FROM THE UNIVERSITY REVOLVING FUND

For salaries and expenses, one hundred sixty thousand dollars $160,000.00

In addition thereto all earnings of the experiment station and all federal funds allotted thereto are appropriated to the experiment station.

In addition to the above appropriation, there is hereby appropriated for the support and maintenance of the state university, all income from land grants and endowments and all other funds not mentioned above which pertain to said institution.

STATE AGRICULTURAL COLLEGE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred seventy-eight thousand dollars.....$178,000.00

FROM THE AGRICULTURAL COLLEGE REVOLVING FUND

For salaries and expenses, one hundred five thousand dollars.....$105,000.00

In addition to the above appropriation, there is hereby appropriated for the support and maintenance of the state agricultural college, all income from land grants and endowments and federal funds and all other funds not mentioned above which pertain to said institution.

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EXPERIMENT STATION

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, forty-five thousand dollars $ 45,000.00

FROM THE EXPERIMENT STATION AND ANIMAL HUSBANDRY REVOLVING FUNDS

For salaries and expenses, seventeen thousand four hundred seventy-five dollars.....$ 17,475.00

In addition to the above appropriations there is hereby appropriated for the experimental station, all federal funds and all other funds not mentioned above which pertain to the experimental station.

EXPERIMENTAL SUB-STATIONS

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses for each of the following branches:

Grain laboratory, five thousand dollars.....$ 5,000.00

Horticulture branch station, six thousand dollars.....$ 6,000.00

Huntley branch station, one thousand dollars.....$ 1,000.00

Judith Basin branch station, six thousand dollars.....$ 6,000.00

North Montana branch station, ten thousand dollars....$ 10,000.00

Fort Keough livestock range station, one thousand dollars .....$ 1,000.00

FROM THE SUB-STATION REVOLVING FUNDS

For salaries and expenses for each of the following branches:

Grain laboratory, two thousand five hundred dollars....$ 2,500.00

Horticulture branch, three hundred fifty dollars.....$ 350.00

Judith Basin branch station, eleven hundred twenty dollars .....$ 1,120.00

North Montana branch station, twenty-five hundred dollars .....$ 2,500.00

In addition to the above appropriations there is hereby appropriated for each of the sub-stations, all federal funds and all other funds not mentioned above which pertain to the respective divisions.

EXTENSION SERVICE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, forty-five thousand dollars $ 45,000.00

FROM THE EXTENSION SERVICE REVOLVING FUND

For salaries and expenses, thirty-six hundred dollars.....$ 3,600.00

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In addition to the above appropriations there is hereby appropriated for the extension service, all federal funds and all other funds not mentioned above which pertain to the extension service.

STATE SCHOOL OF MINES

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, fifty-eight thousand three hundred seventy-five dollars.....$ 58,375.00

FROM THE SCHOOL OF MINES REVOLVING FUND

For salaries and expenses, seventeen thousand dollars..$ 17,000.00

In addition to the above appropriation, there is hereby appropriated for the support and maintenance of the State School of Mines, all income from land grants and endowments and all other funds not mentioned above which pertain to said institution.

BUREAU OF MINES AND GEOLOGY

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, ten thousand dollars.....$ 10,000.00

STATE NORMAL COLLEGE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, sixty-six thousand dollars....$ 66,000.00

FROM THE NORMAL COLLEGE REVOLVING FUND

For salaries and expenses, fifteen thousand dollars.....$ 15,000.00

In addition to the above appropriations, there is hereby appropriated for the support and maintenance of the State Normal College, one-half (½) of all income from land grants, and all endowments and all other funds not mentioned above which pertain to said institution.

EASTERN MONTANA NORMAL SCHOOL

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, sixty thousand dollars.....$ 60,000.00

For landscaping of campus, two thousand dollars.....$ 2,000.00

FROM THE EASTERN MONTANA NORMAL SCHOOL REVOLVING FUND

For salaries and expenses, sixteen thousand dollars.....$ 16,000.00

In addition to the above appropriations, there is hereby appropriated for the support and maintenance of the Eastern Montana Normal School, one-half (½) of all income from land grants, and all endowments, and all other funds not mentioned above which pertain to said institution.

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NORTHERN MONTANA COLLEGE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, fifty-nine thousand dollars....$ 59,000.00

For new boiler, and installation of same, fifteen hundred dollars.....$ 1,500.00

For addition to library, fifteen hundred dollars.....$ 1,500.00

For W. P. A. flood control project, seven hundred dollars .....$ 700.00

For sidewalks and campus improvements, one thousand dollars.....$ 1,000.00

For additional janitor, fifteen hundred dollars.....$ 1,500.00

FROM THE NORTHERN MONTANA COLLEGE
REVOLVING FUND

For salaries and expenses, sixteen thousand dollars.....$ 16,000.00

In addition to the above appropriations, there is hereby appropriated all other funds not mentioned above which pertain to said institution.

STUDENT RAILROAD REFUNDS
FROM THE UNIVERSITY MILLAGE FUND

To equalize the traveling fare of students in attendance upon the institutions of the Greater University of Montana, two thousand dollars.....$ 2,000.00

Section 3. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any monies in the state treasury, and from special funds enumerated herein, not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1940, and ending June 30, 1941.

STATE UNIVERSITY
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, two hundred eighty-four thousand five hundred dollars.....$284,500.00

In addition thereto for adjustment of employees salaries in the physical plant, two thousand dollars.....$ 2,000.00

FROM THE UNIVERSITY REVOLVING FUND

For salaries and expenses, one hundred sixty thousand dollars $160,000.00

In addition to the above appropriation, there is hereby appropriated for the support and maintenance of the state university, all

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income from land grants and endowments and all other funds not mentioned above which pertain to said institution.

STATE AGRICULTURAL COLLEGE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred seventy-eight thousand dollars.....$178,000.00

FROM THE AGRICULTURAL COLLEGE REVOLVING FUND

For salaries and expenses, one hundred five thousand dollars $105,000.00

In addition to the above appropriations, there is hereby appropriated for the support and maintenance of the state agricultural college, all income from land grants and endowments and federal funds and all other funds not mentioned above which pertain to said institution.

EXPERIMENT STATION
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, forty-five thousand dollars..$ 45,000.00

FROM THE EXPERIMENT STATION AND ANIMAL HUSBANDRY REVOLVING FUNDS

For salaries and expenses, eighteen thousand three hundred fifteen dollars.....$ 18,315.00

In addition to the above appropriations there is hereby appropriated for the experimental station, all federal funds and all other funds not mentioned above which pertain to the experimental station.

EXPERIMENTAL SUB-STATIONS
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses for each of the following branches:

Grain laboratory, five thousand dollars.....$ 5,000.00
Horticulture branch station, six thousand dollars.....$ 6,000.00
Huntley branch station, one thousand dollars.....$ 1,000.00
Judith Basin branch station, six thousand dollars.....$ 6,000.00
North Montana branch station, ten thousand dollars....$ 10,000.00
Fort Keough livestock range station, one thousand dollars .....$ 1,000.00

FROM THE SUB-STATION REVOLVING FUND

For salaries and expenses for each of the following branches:

Grain laboratory, two thousand five hundred dollars....$ 2,500.00

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Horticulture branch, three hundred fifty dollars.....$ 350.00

Judith Basin branch station, fifteen hundred twenty dollars .....$ 1,520.00

North Montana branch station, twenty-five hundred dollars .....$ 2,500.00

In addition to the above appropriations, there is hereby appropriated for each of the sub-stations, all federal funds and all other funds not mentioned above which pertain to the respective divisions.

EXTENSION SERVICE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, forty-five thousand dollars.....$ 45,000.00

FROM THE EXTENSION SERVICE REVOLVING FUND

For salaries and expenses, three thousand six hundred dollars .....$ 3,600.00

In addition to the above appropriations, there is hereby appropriated for the extension service, all federal funds and all other funds not mentioned above which pertain to the extension service.

SCHOOL OF MINES

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, fifty-eight thousand three hundred seventy-five dollars.....$ 58,375.00

FROM THE SCHOOL OF MINES REVOLVING FUND

For salaries and expenses, seventeen thousand dollars..$ 17,000.00

In addition to the above appropriations, there is hereby appropriated for the support and maintenance of the State School of Mines, all income from land grants and endowments and all other funds not mentioned above which pertain to said institution.

BUREAU OF MINES AND GEOLOGY

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, ten thousand dollars.....$ 10,000.00

STATE NORMAL COLLEGE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, sixty-six thousand dollars....$ 66,000.00

FROM THE NORMAL COLLEGE REVOLVING FUND

For salaries and expenses, fifteen thousand dollars.....$ 15,000.00

In addition to the above appropriations, there is hereby appropriated for the support and maintenance of the State Normal College,

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one-half (½) of all income from land grants, and all endowments and all other funds not mentioned above which pertain to said institution.

EASTERN MONTANA NORMAL SCHOOL
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, sixty thousand dollars.....$ 60,000.00

FROM THE EASTERN MONTANA NORMAL SCHOOL
REVOLVING FUND

For salaries and expenses, sixteen thousand dollars.....$ 16,000.00

In addition to the above appropriations, there is hereby appropriated for the support and maintenance of the Eastern Montana Normal School, one-half (½) of all income from land grants, and all endowments, and all other funds not mentioned above which pertain to said institution.

NORTHERN MONTANA COLLEGE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, sixty thousand five hundred dollars .....$ 60,500.00

For addition to library, fifteen hundred dollars.....$ 1,500.00

For W. P. A. flood control project, seven hundred dollars .....$ 700.00

For additional janitor, fifteen hundred dollars.....$ 1,500.00

FROM THE NORTHERN MONTANA COLLEGE
REVOLVING FUND

For salaries and expenses, sixteen thousand dollars.....$ 16,000.00

In addition to the above appropriations, there is hereby appropriated all other funds not mentioned above which pertain to said institution.

STUDENT RAILROAD REFUNDS
FROM THE UNIVERSITY MILLAGE FUND

To equalize the traveling fare of students in attendance upon the institutions of the Greater University of Montana, two thousand dollars.....$ 2,000.00

Section 4. Provided further, that all appropriations contained herein shall be used for the purposes designated and no other, and the definitions given in Section 1 of this act shall govern all appropriations.

Section 5. It is further provided that wherein departments or institutions have specific appropriations from sources other than

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the general fund or university millage fund, excepting trust funds wherein a specific law governs, the money from such other sources shall be used, when available, before using the appropriations from the general fund or university millage fund.

Section 6. Appropriations contained herein shall not be used for travel to conventions, teachers' meetings, association meetings, or gatherings of like character, wherein said meetings are held outside the State of Montana, except by special permission of the state board of examiners. It is further provided that the appropriations contained herein shall not be used for salary and expenses of a chancellor for the Greater University of Montana.

Section 7. It shall be expressly understood that no additional buildings shall be constructed, nor any funds pledged for this purpose during the next two years, notwithstanding the provisions of any existing laws.

Section 8. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 9, 1939.

HOUSE BILL NO. 150

An Act to Appropriate Money From the State General Fund for the Salary of Bandmaster and Instructor at the Montana State Prison, and to Prevent the Termination of the W. A. Clark Trust for the Benefit of Prisoners at Said Institution, for the Biennium July 1, 1939, to June 30, 1941.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That in order to maintain the existence and productivity of the W. A. Clark trust for the maintenance of a band, band equipment, musical library, instrument repairs and other incidentals, the following sum, or so much thereof as may be found necessary, shall be and the same is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, for the salary and traveling expenses of bandmaster and musical instructor at the Montana state prison, for the period beginning July 1, 1939, and ending June 30, 1940, two thousand dollars ($2,000.00).

Section 2. That in order to maintain the existence and productivity of the W. A. Clark trust for the maintenance of a band,

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band equipment, musical library, instrument repairs and other incidentals, the following sum, or so much thereof as may be found necessary, shall be and the same is hereby appropriated out of the moneys in the general fund of the state treasury, not otherwise appropriated, for the salary and traveling expenses of bandmaster and musical instructor at the Montana state prison, for the period beginning July 1, 1940, and ending June 30, 1941, two thousand dollars ($2,000.00).

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

HOUSE BILL NO. 182

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, as Designated Herein, for Certain of the State's Institutions, for the Period Beginning July 1, 1939, and Ending June 30, 1941.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one month, the payment of which is hereby made a proper charge from funds appropriated for "operation".

(2) The term "capital", unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event, shall the term "capital" mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term "repairs" means the amount to be paid for the repair of any capital asset, including buildings or lands.

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(4) The term "replacements" means the amount to be paid for the replacing of any capital asset, as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original asset being worn out or broken.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses" means any expense, including salaries, capital, repairs and replacements and operation, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) When reference is made herein to any Chapter or Section of the Laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1939, and ending June 30, 1940.

STATE SCHOOL FOR DEAF AND BLIND
FROM THE GENERAL FUND

For salaries and expenses, fifty thousand dollars.....$ 50,000.00

In addition thereto there is hereby appropriated all earnings, all income from land grants and all other funds, which may accrue to said institution for salaries and expenses.

STATE TRAINING SCHOOL
FROM THE GENERAL FUND

For salaries and expenses, ninety-five thousand dollars $ 95,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE ORPHANS' HOME
FROM THE GENERAL FUND

For salaries and expenses, eighty-two thousand five hundred dollars.....$ 82,500.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

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STATE INDUSTRIAL SCHOOL
FROM THE GENERAL FUND

For salaries and expenses, fifty-five thousand dollars....$ 55,000.00

For new heating plants, six thousand dollars.....$ 6,000.00

In addition thereto there is hereby appropriated all earnings, all income from land grants and all other funds which may accrue to said institution.

STATE VOCATIONAL SCHOOL FOR GIRLS
FROM THE GENERAL FUND

For salaries and expenses, twenty-eight thousand five hundred dollars.....$ 28,500.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE PRISON
FROM THE GENERAL FUND

For salaries and expenses, one hundred fifty thousand dollars.....$150,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

LICENSE PLATE FACTORY
FROM THE MOTOR VEHICLE FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims in the making of license plates as provided in Section 11573.5 of the Revised Codes of Montana, 1935.

STATE GARMENT FACTORY
FROM THE STATE GARMENT FACTORY REVOLVING FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims, as provided in Section 12447.2 of the Revised Codes of Montana, 1935.

STATE HOSPITAL
FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty thousand dollars.....$350,000.00

For salaries of additional doctors and attendants, fifteen thousand dollars.....$ 15,000.00

For new water system, forty thousand dollars.....$ 40,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

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STATE TUBERCULOSIS SANITARIUM
FROM THE GENERAL FUND

For salaries and expenses, one hundred fifteen thousand dollars.....$115,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE SOLDIERS' HOME
FROM THE GENERAL FUND

For salaries and expenses, thirty-eight thousand five hundred dollars.....$ 38,500.00

In addition thereto there is hereby appropriated all earnings, all federal moneys and all other funds which may accrue to said institution.

Section 3. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1940, and ending June 30, 1941.

STATE SCHOOL FOR DEAF AND BLIND
FROM THE GENERAL FUND

For salaries and expenses, fifty thousand dollars.....$ 50,000.00

In addition thereto there is hereby appropriated all earnings, all income from land grants and all other funds, which may accrue to said institution for salaries and expenses.

STATE TRAINING SCHOOL
FROM THE GENERAL FUND

For salaries and expenses, ninety-five thousand dollars $ 95,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE ORPHANS' HOME
FROM THE GENERAL FUND

For salaries and expenses, eighty-two thousand five hundred dollars.....$ 82,500.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE INDUSTRIAL SCHOOL
FROM THE GENERAL FUND

For salaries and expenses, fifty-five thousand dollars....$ 55,000.00

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In addition thereto there is hereby appropriated all earnings, all income from land grants and all other funds which may accrue to said institution.

STATE VOCATIONAL SCHOOL FOR GIRLS
FROM THE GENERAL FUND

For salaries and expenses, twenty-eight thousand five hundred dollars.....$ 28,500.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE PRISON
FROM THE GENERAL FUND

For salaries and expenses, one hundred fifty thousand dollars.....$150,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

LICENSE PLATE FACTORY
FROM THE MOTOR VEHICLE FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims in the making of license plates as provided in Section 11573.5 of the Revised Codes of Montana, 1935.

STATE GARMENT FACTORY
FROM THE STATE GARMENT FACTORY REVOLVING FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims, as provided in Section 12447.2 of the Revised Codes of Montana, 1935.

STATE HOSPITAL
FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty thousand dollars.....$350,000.00

For salaries of additional attendants, fifteen thousand dollars.....$ 15,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE TUBERCULOSIS SANITARIUM
FROM THE GENERAL FUND

For salaries and expenses, one hundred fifteen thousand dollars.....$115,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

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STATE SOLDIERS' HOME
FROM THE GENERAL FUND

For salaries and expenses, thirty-eight thousand five hundred dollars.....$ 38,500.00

In addition thereto there is hereby appropriated all earnings, all federal moneys and all other funds which may accrue to said institution.

Section 4. Provided further, that all appropriations contained herein shall be used for the purposes designated and no other, and the definitions given in Section 1 of this act shall govern all appropriations.

Section 5. Appropriations contained herein shall not be used for travel to conventions, teachers meetings, association meetings or gatherings of like character, wherein the said meetings are held outside of the State of Montana except by special permission of the state board of examiners who may deem it necessary for attendance on such meetings. The state board of examiners shall spread on their minutes the reasons for their permission. It is expressly understood that Sub-section 2 of Section 1 of this act shall mean that no new buildings shall be constructed nor any of the funds appropriated herein shall be pledged for that purpose.

Section 6. It is further provided that wherein departments or institutions have specific appropriations from sources other than the general fund, excepting trust funds wherein a specific law governs, the money from such other sources shall be used, when available, before using the appropriations from the general fund.

Section 7. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 3, 1939.

HOUSE BILL NO. 247

An Act to Appropriate Ten Thousand Dollars ($10,000.00) Per Annum to Aid in the Continuation of the Cooperative Work, Now Being Carried on by the Montana Livestock Commission, the Fish and Game Commission and the Federal Agencies, in the Control of Predatory Animals in the State of Montana; and Said Funds to Be Subject to the Order of the Livestock Commission of the State of Montana.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of ten thousand dollars ($10,000.00) per annum for the biennial period ending June 30, 1941, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, such money to be used and expended by the livestock commission in cooperation with the state fish and game commission and with the agencies of the United States of America in continuing the work now being carried out in the destruction of predatory animals which prey upon wild game, poultry and livestock in the State of Montana, and to engage hunters for such work.

Section 2. That the amount of money hereby appropriated shall be subject to the order of the Montana livestock commission of the State of Montana, only, and shall be used for the purposes herein designated, and no other.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

HOUSE BILL NO. 271

An Act Appropriating Money for the Payment to the Estate of Walter B. Sands, Deceased, of Salary Earned by Walter B. Sands While Chief Justice of the Supreme Court of the State of Montana Which He Did not Receive.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That whereas the late Walter B. Sands, while chief justice of the supreme court of the State of Montana, received as salary the sum of $6,000.00 per year, while the salary for the chief justice is $7,500.00 per year, and the balance of his salary which accrued during his lifetime amounts to $5,179.00 which has never been paid by the State of Montana, and which sum constitutes a valid claim against the State of Montana;

NOW, THEREFORE, there is hereby appropriated out of any moneys in the treasury of the State of Montana belonging to the general fund, not otherwise appropriated, the sum of $5,179.00 for

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payment to the estate of Walter B. Sands, deceased, and the state auditor is hereby authorized and directed to draw a warrant on the general fund, payable to the executor or administrator of the estate of said Walter B. Sands, deceased, in payment of said amount, and the state treasurer is hereby directed to pay the same.

Section 2. The appropriation hereinbefore provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1939.

HOUSE BILL NO. 280

An Act to Appropriate Money for the State Department of Public Welfare of the State of Montana for General Relief and Contingencies for the Period Ending March 1, 1939, It Having Been Found That the Appropriations Provided by the Twenty-fifth Legislative Assembly Were Insufficient for the Above Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum or so much thereof as may be found necessary, be, and the same hereby is appropriated out of any money in the State general fund, for the objects and purposes hereinafter explained for the year ending March 1, 1939.

STATE DEPARTMENT OF PUBLIC WELFARE
FROM THE GENERAL FUND

For general relief and contingencies.....$ 75,000.00

Section 2. It is the intent of this act that the appropriation contained herein for the state department of public welfare, is additional to the appropriations provided by the twenty-fifth legislative assembly, and the appropriation contained herein shall become part of the original appropriations and operative under the same laws as said original appropriations which were provided by the twenty-fifth legislative assembly.

Section 3. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

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Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 8, 1939.

HOUSE BILL NO. 322

An Act to Appropriate Money for the Department of Agriculture, Labor and Industry, Division of Labor and Publicity, for the Use of the Montana Commission for the Golden Gate International Exposition, in Maintaining a Montana Exhibit at the Golden Gate International Exposition.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, for the purposes of paying the expense of operating and maintaining an exhibit at the Golden Gate International Exposition to be held at San Francisco, California, commencing February 18, 1939, and ending January 1, 1940, the sum of ten thousand dollars ($10,000.00), the same being more particularly itemized as follows:

DEPARTMENT OF AGRICULTURE, LABOR AND INDUSTRY
DIVISION OF LABOR AND PUBLICITY

For use of Montana commission, Golden Gate International Exposition; operation and maintenance.....$ 10,000.00

Section 2. The appropriation herein provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1939.

HOUSE BILL NO. 363

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, as Designated Herein, for All State Departments, Boards, Bureaus, Commissions and Institutions for the Period Beginning July 1, 1939, and Ending June 30, 1941.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one (1) month, the payment of which is hereby made a proper charge from funds appropriated for "operation".

(2) The term "capital", unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event, shall the term "capital" mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term "repairs" means the amount to be paid for the repair of any capital asset, including buildings or lands.

(4) The term "replacements" means the amount to be paid for the replacing of any capital asset, as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original asset being worn out or broken.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses" means any expense, including salaries, capital and replacements and operation, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) When reference is made herein to any Chapter or Section of the Laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1939, and ending June 30, 1940.

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LIVESTOCK SANITARY BOARD AND VETERINARY SURGEON
FROM THE GENERAL FUND

For salaries and expenses, fifty-five thousand dollars....$ 55,000.00

FROM THE LIVESTOCK SANITARY BOARD FUND

For the payment of slaughtered stock as provided in Chapter 2078, Revised Codes of Montana, 1935, and for salaries and expenses of the livestock sanitary board, such sums as may be available.

FROM THE LIVESTOCK SANITARY BOARD EMERGENCY FUND

For the payment of emergencies arising out of the operation of the livestock sanitary board, as much as may be required when such emergency is declared to exist by said livestock sanitary board as provided in Section 2078, of the Revised Codes of Montana, 1935.

LIVESTOCK COMMISSION
FROM THE GENERAL FUND

For salaries and expenses, twenty-five thousand dollars.....$ 25,000.00

FROM THE LIVESTOCK COMMISSION FUND

All collections are hereby appropriated for salaries and expenses in connection with the work of the commission as provided in Section 3257, Revised Codes of Montana, 1935.

FROM THE BOUNTY FUND

For the salary of one clerk, one thousand four hundred forty dollars.....$ 1,440.00

For the payment of bounty claims, so much thereof as may be necessary.

FROM THE STOCK ESTRAY FUND

So much thereof as may be necessary for the payment of estray claims as provided in Section 3331, Revised Codes of Montana, 1935.

BUREAU OF CIVILIAN REHABILITATION
FROM THE GENERAL FUND

For salary of supervisor, three thousand dollars.....$ 3,000.00

For salary of field agent, eighteen hundred dollars.....$ 1,800.00

For salary of stenographer, fifteen hundred sixty dollars.....$ 1,560.00

For operation, five thousand six hundred forty dollars $ 5,640.00

For payment of maintenance of vocational trainees, thirteen thousand dollars.....$ 13,000.00

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In addition thereto there is hereby appropriated all moneys received from the federal government for civilian rehabilitation, provided, however, that no administrative salaries shall be increased by reason of the use of this fund.

STATE ENTOMOLOGIST

FROM THE GENERAL FUND

For salaries and expenses, for eradication of grasshoppers and crickets, six thousand dollars.....$ 6,000.00

BOARD OF ENTOMOLOGY

FROM THE GENERAL FUND

For salaries and expenses, five hundred dollars.....$ 500.00

BOARD OF HEALTH

FROM THE GENERAL FUND

For salaries, fixed by law, five thousand dollars.....$ 5,000.00

For other salaries, thirty thousand dollars.....$ 30,000.00

For capital, repairs and replacements, three hundred dollars .....$ 300.00

For operation, fifteen hundred dollars.....$ 1,500.00

CHILD WELFARE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, nine thousand dollars.....$ 9,000.00

FROM THE BOARD OF HEALTH REVOLVING FUND

All fees and earnings are hereby appropriated to be used in connection with the board of health and child welfare division as salaries and expenses.

The amounts above appropriated are declared to be in addition to any money received for any special work, in connection with the board of health or the child welfare division for which it is received.

STATE EXAMINER

FROM THE GENERAL FUND

For salaries fixed by law, thirty-two thousand four hundred dollars.....$ 32,400.00

For other salaries, six thousand four hundred eighty dollars .....$ 6,480.00

For capital, repairs and replacements, six hundred dollars .....$ 600.00

For operation, twelve thousand dollars.....$ 12,000.00

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FROM THE SPECIAL EXAMINER'S FUND

All fees and collections for special examinations are hereby appropriated as provided in Section 6014.84, Revised Codes of Montana, 1935.

PERMANENT REVOLVING FUND
FROM THE GENERAL FUND

There is further appropriated from the general fund, the sum of five thousand dollars ($5,000.00), for the purpose of creating a permanent revolving fund to be known as the state examiner's permanent revolving fund. The salaries and expenses of all examinations of the Montana liquor control board, Montana relief commission or other agency handling the social security act, Montana fish and game department, Montana water conservation board, Montana highway commission, board of abstract examiners, board of architectural examiners, board of medical examiners, licensed embalmers board, Montana milk control board, Montana tuberculosis association, Montana stallion registration board, hail insurance board, board of chiropractic examiners, state grazing commission, state highway patrol, motor vehicle department, Montana athletic commission and public school teachers' retirement, and any other department, board or commission not operating on a general fund appropriation, and all such examinations shall be paid from this revolving fund, and such board, commission, department, or agency shall reimburse said fund in an amount equal to the entire expense incurred in making such examination or examinations so that this fund may become a permanent revolving fund for the purpose of meeting the expense incurred in making such examinations.

ADJUTANT GENERAL
FROM THE GENERAL FUND

For salaries, fixed by law, three thousand dollars.....$ 3,000.00

For salaries not fixed by law, seven thousand dollars....$ 7,000.00

For rental of drill halls, store rooms and company allowances, ten thousand dollars.....$ 10,000.00

For capital and repairs, two hundred seventy-five dollars .....$ 275.00

For operation, nine thousand seven hundred forty-five dollars .....$ 9,745.00

For expenses for additional units, and rebuilding state arsenal, eighteen thousand dollars.....$ 18,000.00

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BOARD OF HAIL INSURANCE

FROM THE HAIL INSURANCE ADMINISTRATIVE FUND

For salaries fixed by law, three thousand dollars.....$ 3,000.00

For other salaries and expenses, nine thousand seven hundred sixty-five dollars.....$ 9,765.00

FROM THE HAIL INSURANCE FUND

So much thereof as may be necessary to pay all losses and lawful claims in compliance with Section 361, Revised Codes of Montana, 1935.

INDUSTRIAL ACCIDENT BOARD

FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars.....$ 5,000.00

For other salaries and expenses, thirty-five thousand dollars.....$ 35,000.00

FROM THE INDUSTRIAL ADMINISTRATIVE FUND

In addition to the above appropriation, there is hereby appropriated all fees and collections accruing to the industrial administrative fund for salaries and expenses, as provided in Section 2831, Revised Codes of Montana, 1935.

FROM THE INDUSTRIAL ACCIDENT FUND

So much thereof as may be necessary to pay all claims which are lawfully chargeable to this fund, as defined under Section 2993, Revised Codes of Montana, 1935.

FROM THE VOLUNTEER FIREMEN'S COMPENSATION FUND

For administrative expenses as much as may be necessary, as provided by law.

For disability claims as much as may be necessary, as provided by law.

BOARD OF COAL MINE INSPECTORS

FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty dollars..$ 350.00

BOARD OF EDUCATION

FROM THE GENERAL FUND

For expenses, one thousand dollars.....$ 1,000.00

FROM THE PUBLIC SCHOOL FUND

For salary of one clerk, one thousand eight hundred dollars.....$ 1,800.00

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VOCATIONAL EDUCATION
FROM THE GENERAL FUND

For salaries and expenses in connection with vocational education, twenty thousand dollars.....$ 20,000.00

In addition to the foregoing amount, all income from federal funds, known as the vocational U. S. aid fund, and George Dean fund, or any other federal funds that may be available are hereby appropriated. No reimbursement shall be made to any of the units of the Greater University of Montana from the above general fund appropriation.

WORLD WAR ORPHANS' EDUCATION
FROM THE GENERAL FUND

For expenses of education for world war orphans, eighteen hundred dollars.....$ 1,800.00

TEXT BOOK COMMISSION
FROM THE GENERAL FUND

For expenses, three hundred dollars.....$ 300.00

STATE LAW LIBRARY
FROM THE GENERAL FUND

For salaries fixed by law, four thousand three hundred dollars .....$ 4,300.00

For capital, repairs, and replacements, four hundred fifty dollars.....$ 450.00

For operation, three hundred dollars.....$ 300.00

For legislative reference bureau, seventy-five dollars..$ 75.00

FROM THE LAW LIBRARY BOOK FUND

So much thereof as may be necessary for the purchase of law books, as provided in Section 1556, Revised Codes of Montana, 1935.

HISTORICAL SOCIETY OF MONTANA
FROM THE GENERAL FUND

For salaries, four thousand two hundred dollars.....$ 4,200.00

For capital, repairs and replacements, one thousand six hundred dollars.....$ 1,600.00

For operation, seven hundred dollars.....$ 700.00

For compiling Montana history, two thousand dollars..$ 2,000.00

STATE BOARD OF EXAMINERS
FROM THE GENERAL FUND

For salaries fixed by law, three thousand six hundred dollars .....$ 3,600.00

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For other salaries, six thousand six hundred seventy-five dollars.....$ 6,675.00

For capital, repairs and replacements, three hundred twenty-five dollars.....$ 325.00

For operation, eighteen hundred fifty dollars.....$ 1,850.00

STATE ACCOUNTANT AND BUDGET OFFICE
FROM THE GENERAL FUND

For salaries fixed by law, four thousand dollars.....$ 4,000.00

For other salaries, seven thousand dollars.....$ 7,000.00

For capital, repairs and replacements, three hundred fifty dollars.....$ 350.00

For operation, one thousand two hundred seventy dollars.....$ 1,270.00

STATE ENGINEER
FROM THE GENERAL FUND

For salaries fixed by law, three thousand dollars.....$ 3,000.00

For other salaries, two thousand four hundred dollars..$ 2,400.00

For capital, repairs, replacements and operation, eight hundred forty-seven dollars.....$ 847.00

STREAM GAUGING
FROM THE GENERAL FUND

For salaries and expenses, nine thousand dollars.....$ 9,000.00

For survey of interstate waters, one thousand two hundred fifty dollars.....$ 1,250.00

FROM THE CAREY LAND ACT FUND

For salaries and expenses, four hundred seventy-seven dollars.....$ 477.00

STATE HIGHWAY COMMISSION
FROM THE HIGHWAY FUND

There is hereby appropriated out of the state highway fund all revenue, for expenditures by the state highway commission as provided by law; provided that the total cost to the State for administration and engineering on the federal aid work prescribed by law shall not exceed for any fiscal year eight per cent. (8%) of the total of state and federal aid and all other available funds expended under the supervision of the state highway commission as provided by Initiative Measures No. 31 and No. 41 and acts supplementary or amendatory thereto; provided further, that the commission shall file with the governor a monthly report showing the overhead cost of operation; provided further, that the state treasurer is hereby

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required to transfer from the state highway fund to the state highway trust fund from time to time upon request of the state highway commission, subject to the approval of the state board of examiners, such parts of the money hereby appropriated as are necessary to match federal aid for construction and for reconstruction purposes and when so transferred, said moneys may be expended and drawn from the said state highway trust fund in the same manner as other moneys in said fund are expended.

In addition thereto, there is hereby appropriated all federal funds that may be made available for highway purposes.

COMMISSIONER OF STATE LANDS AND INVESTMENTS
FROM THE GENERAL FUND

For salaries fixed by law, six thousand dollars.....$ 6,000.00
For other salaries, sixteen thousand dollars.....$ 16,000.00
For capital, repairs and replacements, three hundred seventy-five dollars.....$ 375.00
For operation, four thousand dollars.....$ 4,000.00

CHIEF FIELD AGENT
FROM THE GENERAL FUND

For salaries fixed by law, three thousand two hundred fifty dollars.....$ 3,250.00
For other salaries, six thousand dollars.....$ 6,000.00
For expenses, six thousand six hundred dollars.....$ 6,600.00
For salaries and expenses of two or more additional field men, five thousand dollars.....$ 5,000.00

FISH AND GAME COMMISSION
FROM THE FISH AND GAME FUND

As much as may be necessary to pay all lawful claims as provided by law.

CAPITOL BUILDING
FROM THE GENERAL FUND

For salaries fixed by law, twenty-five thousand four hundred ninety dollars.....$ 25,490.00
For salaries of postmaster and assistant, three thousand dollars.....$ 3,000.00
For salaries of substitutes for postmaster and assistant during vacations, one hundred twenty-five dollars.....$ 125.00
For expense of delivering mail, one hundred eighty dollars.....$ 180.00

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For capital, repairs and replacements, five thousand dollars ..... $ 5,000.00

For operation, twelve thousand five hundred dollars.... $ 12,500.00

G. A. R. CUSTODIAN
FROM THE GENERAL FUND

For salary of custodian, nine hundred dollars..... $ 900.00

UNEMPLOYMENT COMPENSATION COMMISSION
FROM THE GENERAL FUND

For salaries and expenses for the employment service division for the purpose of matching funds from the federal government under the Wagner Peyser act, thirteen thousand twenty-one and twenty-six one-hundredths dollars..... $ 13,021.26

In addition to the above appropriation, all federal funds are hereby appropriated for the unemployment compensation commission.

STATE HIGHWAY PATROL
FROM THE HIGHWAY PATROL REVOLVING FUND

All revenue is hereby appropriated in compliance with Section 1741.12, Revised Codes of Montana, 1935.

VETERANS' WELFARE COMMISSION
FROM THE GENERAL FUND

For salaries and expenses, ten thousand dollars..... $ 10,000.00

STATE LIQUOR CONTROL BOARD
FROM THE LIQUOR BOARD FUND

So much thereof as may be necessary to carry out the provisions of Sections 2815.153 and 2815.154, Revised Codes of Montana, 1935.

BEER DIVISION
FROM THE MONTANA BEER ACT FUND

So much thereof as may be necessary, not exceeding ten per cent (10%) of all revenue, to pay all lawful claims as provided by law.

RETAIL LIQUOR LICENSE DIVISION
FROM COLLECTIONS FROM LIQUOR LICENSES

So much thereof as may be necessary, not exceeding ten per cent (10%) of the license fees collected under the provisions of Chapter 84, Laws of Montana of 1937, to pay the expenses of Montana liquor control board in the administration of said act.

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BOARD OF EQUALIZATION
ADMINISTRATION
FROM THE GENERAL FUND

For salaries fixed by law, fifteen thousand dollars.....$ 15,000.00

For other salaries and expenses, twenty-five thousand six hundred fifty dollars.....$ 25,650.00

FROM THE STATE PUBLIC SCHOOL GENERAL FUND

For salaries and expenses, four thousand dollars.....$ 4,000.00

GENERAL FIELD SUPERVISOR
FROM THE GENERAL FUND

For salaries and expenses, six thousand dollars.....$ 6,000.00

INCOME TAX DIVISION
FROM THE STATE PUBLIC SCHOOL GENERAL FUND

For salaries and expenses, thirty-five thousand seven hundred thirty dollars.....$ 35,730.00

STORE LICENSE DIVISION
FROM THE GENERAL FUND

For salaries and expenses, nine thousand eight hundred dollars.....$ 9,800.00

CONTRACTORS' LICENSE DIVISION
FROM THE GENERAL FUND

For salaries and expenses, eighteen hundred dollars....$ 1,800.00

CORPORATION LICENSE TAX DIVISION
FROM THE GENERAL FUND

For salaries and expenses, ten thousand three hundred thirty-two dollars.....$ 10,332.00

FROM THE STATE PUBLIC SCHOOL GENERAL FUND

For salaries and expenses, three thousand four hundred forty-three dollars.....$ 3,443.00

GASOLINE, COAL AND OIL TAX DIVISION
FROM THE HIGHWAY FUND

For salaries and expenses, twenty-eight thousand one hundred fifty dollars.....$ 28,150.00

FROM THE GENERAL FUND

For salaries and expenses, five thousand two hundred seventy-eight dollars.....$ 5,278.00

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FROM THE STATE PUBLIC SCHOOL GENERAL FUND

For salaries and expenses, one thousand seven hundred sixty dollars.....$ 1,760.00

FROM THE GASOLINE DRAWBACK FUND

For gasoline tax drawbacks, so much thereof as may be necessary to comply with the provisions of Section 2396.4, Revised Codes of Montana, 1935.

THEATRE LICENSE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, four hundred seventy dollars .....$ 470.00

DEPARTMENT OF AGRICULTURE, LABOR AND INDUSTRY

ADMINISTRATION

FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars.....$ 5,000.00

For other salaries, four thousand dollars.....$ 4,000.00

For capital, repairs and replacements, two hundred fifty dollars.....$ 250.00

For operation, two thousand dollars.....$ 2,000.00

DAIRY DIVISION

FROM THE GENERAL FUND

For salaries and expenses, two thousand five hundred dollars .....$ 2,500.00

FROM THE DAIRY DIVISION REVOLVING FUND

For salaries and expenses, so much thereof as may be necessary for lawful claims wherein funds are available.

GRAIN GRADING AND SCALE TESTING DIVISION

FROM THE GRAIN GRADING AND SCALE TESTING REVOLVING FUND

For salaries and expenses, so much thereof as may be necessary for lawful claims wherein funds are available.

APIARY DIVISION OR BEE INSPECTION ACTIVITY

FROM THE GENERAL FUND

For salaries and expenses, two thousand five hundred dollars .....$2,500.00 (x) Vetoed

HORTICULTURE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, two thousand dollars.....$ 2,000.00

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FROM THE HIGHWAY FUND

For salaries and expenses, six thousand dollars.....$ 6,000.00

FROM THE LIQUOR FUND

For salaries and expenses, twenty-five hundred dollars $ 2,500.00

FROM THE HORTICULTURE REVOLVING FUND (352-B)

For salaries and expenses, so much thereof as may be necessary to pay lawful claims where funds are available.

FROM THE HORTICULTURE REVOLVING FUND (219)

For salaries and expenses, so much thereof as may be necessary to comply with the provisions of Section 3634.1, Revised Codes of Montana, 1935.

DIVISION OF LABOR AND PUBLICITY

FROM THE GENERAL FUND

For salaries and expenses, six thousand dollars.....$ 6,000.00

REAL ESTATE DIVISION

FROM THE REAL ESTATE REVOLVING FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims wherein funds are available.

DIVISION OF COMMERCIAL FERTILIZER

FROM THE FERTILIZER REVOLVING FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims wherein funds are available.

STATE FAIR REVOLVING FUND

So much thereof as may be necessary for maintenance and repairs of state fair grounds.

PURCHASING AGENT

FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars.....$ 5,000.00

For other salaries and expenses, three thousand eight hundred seventy-five dollars.....$ 3,875.00

FROM THE HIGHWAY FUND

For salaries and expenses, thirteen thousand five hundred dollars.....$ 13,500.00

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, five thousand dollars.....$ 5,000.00

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FROM THE FISH AND GAME FUND

For salaries and expenses, one thousand dollars ..... $1,000.00 (x) Vetoed

FROM THE HIGHWAY PATROL REVOLVING FUND

For salaries and expenses, one thousand dollars ..... $ 1,000.00

STATE FORESTER
ADMINISTRATION

FROM THE GENERAL FUND

For salaries fixed by law, three thousand dollars ..... $ 3,000.00

For other salaries, four thousand five hundred fifty dollars ..... $ 4,550.00

For capital, repairs and replacements, four hundred dollars ..... $ 400.00

For operation, six hundred seventy-five dollars ..... $ 675.00

For exchange of lands, four hundred fifty dollars ..... $ 450.00

FOR PROTECTION OF STATE LANDS

FROM THE GENERAL FUND

For salaries and expenses, thirteen thousand four hundred fifty dollars ..... $ 13,450.00

TIMBER SALES

FROM THE GENERAL FUND

For salaries and expenses, five thousand eight hundred seventy dollars ..... $ 5,870.00

In addition to the above appropriations, there is hereby appropriated all revenue received by the foresters' cooperative fund for the use in protection of state lands and brush and slash disposal; provided, however, no administrative salaries shall be increased by reason of the use of this fund.

MOTOR VEHICLE DEPARTMENT

FROM THE MOTOR VEHICLE FUND

So much thereof as may be necessary to pay lawful claims to be collected from the motor vehicle funds of the respective counties in proportion to the number of cars registered in each county, as provided in Section 1760, Revised Codes of Montana, 1935.

FROM THE MOTOR VEHICLE RECORDING FUND

For salaries and expenses, so much thereof as may be necessary to pay all claims of the motor vehicle division wherein funds are available. The moneys available in this fund shall be used first, before using any funds from the motor vehicle fund.

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ATHLETIC COMMISSION
FROM THE VETERANS' MEMORIAL FUND

So much thereof as may be necessary to pay lawful claims as provided in Section 4551, Revised Codes of Montana, 1935.

SALARIES AND EXPENSES OF DISTRICT JUDGES
FROM THE GENERAL FUND

For salaries of district judges, one hundred ten thousand four hundred dollars.....$110,400.00

For expenses, twelve thousand six hundred dollars.....$ 12,600.00

SALARIES OF COUNTY ATTORNEYS
FROM THE GENERAL FUND

For salaries, fifty thousand dollars.....$ 50,000.00

TRANSPORTATION OF PRISONERS
FROM THE GENERAL FUND

For the purpose of paying the expenses of transporting prisoners, nine thousand dollars.....$ 9,000.00

REGULATORY BOARDS

All regulatory boards for which the law provides for a collection of fees and such fees are deposited with the state treasurer, are hereby appropriated for the use of each of the said boards, a sum equal to the amount of their collections, except wherein the law provides for deductions.

The following boards are enumerated as regulatory boards not having their funds on deposit with the state treasurer:

STATE EXAMINING BOARD OF ABSTRACTORS
BOARD OF ARCHITECTURAL EXAMINERS
BOARD OF CHIROPRACTIC EXAMINERS
BOARD OF MEDICAL EXAMINERS
MILK CONTROL BOARD
STATE EXAMINING BOARD FOR NURSES
OIL CONSERVATION BOARD
BOARD OF EXAMINERS IN PHOTOGRAPHY

FIRE INSURANCE ON STATE BUILDINGS AND CONTENTS
FROM THE GENERAL FUND

For fire insurance premiums on all buildings and contents for the following institutions and departments: State capitol group, school for deaf and blind, orphans' home, industrial school, vocational school, state prison, state hospital, tuberculosis sanitarium, soldiers' home,

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Montana state fair, Montana training school, forty-five thousand dollars.....$ 45,000.00

FROM THE UNIVERSITY MILLAGE FUND

For fire insurance premiums on buildings and contents of the Greater University of Montana, thirty-five thousand dollars.....$ 35,000.00

FROM THE FISH AND GAME FUND

For fire insurance premiums on buildings and contents owned by the fish and game department, three thousand dollars.....$3,000.00 (x) Vetoed

FROM THE HIGHWAY FUND

For fire insurance premiums on buildings and contents owned by the highway department, four thousand dollars .....$ 4,000.00

FROM THE MOTOR VEHICLE FUND

For fire insurance premiums on buildings and contents owned by the motor vehicle department, five hundred dollars .....$ 500.00

Section 3. That the following sums or so much thereof as may be found necessary, be and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein not otherwise appropriated for the object and purposes hereinafter expressed, for the period beginning July 1, 1940, and ending June 30, 1941.

LIVESTOCK SANITARY BOARD AND VETERINARY SURGEON
FROM THE GENERAL FUND

For salaries and expenses, fifty-five thousand dollars....$ 55,000.00

FROM THE LIVESTOCK SANITARY BOARD FUND

For the payment of slaughtered stock as provided in Chapter 2078, Revised Codes of Montana, 1935, and for salaries and expenses of the livestock sanitary board, such sums as may be available.

FROM THE LIVESTOCK SANITARY BOARD
EMERGENCY FUND

For the payment of emergencies arising out of the operation of the livestock sanitary board, as much as may be required when such emergency is declared to exist by said livestock sanitary board as provided in Section 2078, of the Revised Codes of Montana, 1935.

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LIVESTOCK COMMISSION

FROM THE GENERAL FUND

For salaries and expenses, twenty-five thousand dollars ..... $ 25,000.00

FROM THE LIVESTOCK COMMISSION FUND

All collections are hereby appropriated for salaries and expenses in connection with the work of the commission as provided in Section 3257, Revised Codes of Montana, 1935.

FROM THE BOUNTY FUND

For the salary of one clerk, one thousand four hundred forty dollars ..... $ 1,440.00

For the payment of bounty claims, so much thereof as may be necessary.

FROM THE STOCK ESTRAY FUND

So much thereof as may be necessary for the payment of estray claims as provided in Section 3331, Revised Codes of Montana, 1935.

BUREAU OF CIVILIAN REHABILITATION

FROM THE GENERAL FUND

For salary of supervisor, three thousand dollars ..... $ 3,000.00

For salary of field agent, eighteen hundred dollars ..... $ 1,800.00

For salary of stenographer, fifteen hundred sixty dollars ..... $ 1,560.00

For operation, five thousand six hundred forty dollars .. $ 5,640.00

For payment of maintenance of vocational trainees, thirteen thousand dollars ..... $ 13,000.00

In addition thereto there is hereby appropriated all moneys received from the federal government for civilian rehabilitation, provided, however, that no administrative salaries shall be increased by reason of the use of this fund.

STATE ENTOMOLOGIST

FROM THE GENERAL FUND

For salaries and expenses, for eradication of grasshoppers and crickets, six thousand dollars ..... $ 6,000.00

BOARD OF ENTOMOLOGY

FROM THE GENERAL FUND

For salaries and expenses, five hundred dollars ..... $ 500.00

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BOARD OF HEALTH

FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars.....$ 5,000.00
For other salaries, thirty thousand dollars.....$ 30,000.00
For capital, repairs and replacements, three hundred dollars.....$ 300.00
For operation, fifteen hundred dollars.....$ 1,500.00

CHILD WELFARE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, nine thousand dollars.....$ 9,000.00

FROM THE BOARD OF HEALTH REVOLVING FUND

All fees and earnings are hereby appropriated to be used in connection with the board of health and child welfare division as salaries and expenses.

The amounts above appropriated are declared to be in addition to any money received for any special work, in connection with the board of health or the child welfare division, for which it is received.

STATE EXAMINER

FROM THE GENERAL FUND

For salaries fixed by law, thirty-two thousand four hundred dollars.....$ 32,400.00
For other salaries, six thousand four hundred eighty dollars.....$ 6,480.00
For capital, repairs and replacements, six hundred dollars.....$ 600.00
For operation, twelve thousand dollars.....$ 12,000.00

FROM THE SPECIAL EXAMINER'S FUND

All fees and collections for special examinations are hereby appropriated as provided in Section 6014.84, Revised Codes of Montana, 1935.

ADJUTANT GENERAL

FROM THE GENERAL FUND

For salaries fixed by law, three thousand dollars.....$ 3,000.00
For salaries not fixed by law, seven thousand dollars....$ 7,000.00
For rental of drill halls, store rooms and company allowances, ten thousand dollars.....$ 10,000.00
For capital and repairs, two hundred seventy-five dollars.....$ 275.00
For operation, nine thousand seven hundred forty-five dollars.....$ 9,745.00

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For expenses for additional units, and rebuilding state arsenal, eighteen thousand dollars.....$ 18,000.00

BOARD OF HAIL INSURANCE
FROM THE HAIL INSURANCE ADMINISTRATIVE FUND

For salaries fixed by law, three thousand dollars.....$ 3,000.00

For other salaries and expenses, nine thousand seven hundred sixty-five dollars.....$ 9,765.00

FROM THE HAIL INSURANCE FUND

So much thereof as may be necessary to pay all losses and lawful claims in compliance with Section 361, Revised Codes of Montana, 1935.

INDUSTRIAL ACCIDENT BOARD
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars.....$ 5,000.00

For other salaries and expenses, thirty-five thousand dollars .....$ 35,000.00

FROM THE INDUSTRIAL ADMINISTRATIVE FUND

In addition to the above appropriation, there is hereby appropriated all fees and collections accruing to the industrial administrative fund for salaries and expenses, as provided in Section 2831, Revised Codes of Montana, 1935.

FROM THE INDUSTRIAL ACCIDENT FUND

So much thereof as may be necessary to pay all claims which are lawfully chargeable to this fund, as defined under Section 2993, Revised Codes of Montana, 1935.

FROM THE VOLUNTEER FIREMEN'S COMPENSATION FUND

For administrative expenses, as much as may be necessary, as provided by law.

For disability claims, as much as may be necessary, as provided by law.

BOARD OF COAL MINE INSPECTORS
FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty dollars..$ 350.00

BOARD OF EDUCATION
FROM THE GENERAL FUND

For expenses, one thousand dollars.....$ 1,000.00

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FROM THE PUBLIC SCHOOL FUND

For salary of one clerk, one thousand eight hundred dollars ..... $ 1,800.00

VOCATIONAL EDUCATION
FROM THE GENERAL FUND

For salaries and expenses in connection with vocational education, twenty thousand dollars ..... $ 20,000.00

In addition to the foregoing amount, all income from federal funds, known as the vocational U. S. aid fund, and George Dean fund, or any other federal funds that may be available are hereby appropriated. No reimbursement shall be made to any of the units of the Greater University of Montana from the above general fund appropriation.

WORLD WAR ORPHANS' EDUCATION
FROM THE GENERAL FUND

For expenses of education for world war orphans, eighteen hundred dollars ..... $ 1,800.00

TEXT BOOK COMMISSION
FROM THE GENERAL FUND

For expenses, three hundred dollars ..... $ 300.00

STATE LAW LIBRARY
FROM THE GENERAL FUND

For salaries fixed by law, four thousand three hundred dollars ..... $ 4,300.00

For capital, repairs and replacements, three hundred dollars ..... $ 300.00

For operation, three hundred dollars ..... $ 300.00

For legislative reference bureau, seventy-five dollars ..... $ 75.00

FROM THE LAW LIBRARY BOOK FUND

So much thereof as may be necessary for the purchase of law books, as provided in Section 1556, Revised Codes of Montana, 1935.

HISTORICAL SOCIETY OF MONTANA
FROM THE GENERAL FUND

For salaries, four thousand two hundred dollars ..... $ 4,200.00

For capital, repairs and replacements, one thousand six hundred dollars ..... $ 1,600.00

For operation, seven hundred dollars ..... $ 700.00

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STATE BOARD OF EXAMINERS
FROM THE GENERAL FUND

For salaries fixed by law, three thousand six hundred dollars ..... $ 3,600.00

For other salaries, six thousand six hundred seventy-five dollars ..... $ 6,675.00

For capital, repairs and replacements, three hundred twenty-five dollars ..... $ 325.00

For operation, eighteen hundred thirty-five dollars ..... $ 1,835.00

STATE ACCOUNTANT AND BUDGET OFFICE
FROM THE GENERAL FUND

For salaries fixed by law, four thousand dollars ..... $ 4,000.00

For other salaries, seven thousand dollars ..... $ 7,000.00

For capital, repairs and replacements, three hundred dollars ..... $ 300.00

For operation and printing of budget, three thousand three hundred seventy dollars ..... $ 3,370.00

STATE ENGINEER
FROM THE GENERAL FUND

For salaries fixed by law, three thousand dollars ..... $ 3,000.00

For other salaries, two thousand four hundred dollars ..... $ 2,400.00

For capital, repairs, replacements and operation, eight hundred forty-seven dollars ..... $ 847.00

STREAM GAUGING
FROM THE GENERAL FUND

For salaries and expenses, nine thousand dollars ..... $ 9,000.00

For survey of interstate waters, one thousand two hundred fifty dollars ..... $ 1,250.00

FROM THE CAREY LAND ACT FUND

For salaries and expenses, four hundred seventy-seven dollars ..... $ 477.00

STATE HIGHWAY COMMISSION
FROM THE HIGHWAY FUND

There is hereby appropriated out of the state highway fund all revenue, for expenditures by the state highway commission as provided by law; provided that the total cost to the State for administration and engineering on the federal aid work prescribed by law shall not exceed for any fiscal year eight per cent (8%) of the total

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of state and federal aid and all other available funds expended under the supervision of the state highway commission as provided by Initiative Measures No. 31 and No. 41 and acts supplementary or amendatory thereto; provided further, that the commission shall file with the governor a monthly report showing the overhead cost of operation; provided further, that the state treasury is hereby required to transfer from the state highway fund to the state highway trust fund from time to time upon request of the state highway commission, subject to the approval of the state board of examiners, such parts of the money hereby appropriated as are necessary to match federal aid for construction and for reconstruction purposes and when so transferred, said moneys may be expended and drawn from the said state highway trust fund in the same manner as other moneys in said fund are expended.

In addition thereto, there is hereby appropriated all federal funds that may be made available for highway purposes.

COMMISSIONER OF STATE LANDS AND INVESTMENTS
FROM THE GENERAL FUND

For salaries fixed by law, six thousand dollars.....$ 6,000.00
For other salaries, sixteen thousand dollars.....$ 16,000.00
For capital, repairs and replacements, three hundred seventy-five dollars.....$ 375.00
For operation, four thousand dollars.....$ 4,000.00

CHIEF FIELD AGENT
FROM THE GENERAL FUND

For salaries fixed by law, three thousand two hundred fifty dollars.....$ 3,250.00
For other salaries, six thousand dollars.....$ 6,000.00
For expenses, six thousand six hundred dollars.....$ 6,600.00
For salaries and expenses of two or more additional field men, five thousand dollars.....$ 5,000.00

FISH AND GAME COMMISSION
FROM THE FISH AND GAME FUND

As much as may be necessary to pay all lawful claims as provided by law.

CAPITOL BUILDING
FROM THE GENERAL FUND

For salaries fixed by law, twenty-five thousand four hundred ninety dollars.....$ 25,490.00

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For salaries of postmaster and assistant, three thousand dollars ..... $ 3,000.00

For salaries of substitutes for postmaster and assistant during vacations, one hundred twenty-five dollars..... $ 125.00

For expense of delivering mail, one hundred eighty dollars ..... $ 180.00

For capital, repairs and replacements, five thousand dollars ..... $ 5,000.00

For operation, twelve thousand five hundred dollars.... $ 12,500.00

G. A. R. CUSTODIAN
FROM THE GENERAL FUND

For salary of custodian, nine hundred dollars..... $ 900.00

UNEMPLOYMENT COMPENSATION COMMISSION
FROM THE GENERAL FUND

For salaries and expenses for the employment service division for the purpose of matching funds from the federal government under the Wagner Peyser act, thirteen thousand, twenty-one dollars and twenty-six one-hundredths ..... $ 13,021.26

In addition to the above appropriation, all federal funds are hereby appropriated for the unemployment compensation commission.

STATE HIGHWAY PATROL
FROM THE HIGHWAY PATROL REVOLVING FUND

All revenue is hereby appropriated in compliance with Section 1741.12, Revised Codes of Montana, 1935.

VETERANS' WELFARE COMMISSION
FROM THE GENERAL FUND

For salaries and expenses, eight thousand dollars..... $ 8,000.00

STATE LIQUOR CONTROL BOARD
FROM THE LIQUOR BOARD FUND

So much thereof as may be necessary to carry out the provisions of Sections 2815.153 and 2815.154, Revised Codes of Montana, 1935.

BEER DIVISION
FROM THE MONTANA BEER ACT FUND

So much thereof as may be necessary, not exceeding ten per cent (10%) of all revenue, to pay all lawful claims as provided by law.

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RETAIL LIQUOR LICENSE DIVISION
FROM THE COLLECTIONS FROM LIQUOR LICENSES

So much thereof as may be necessary, not exceeding ten per cent (10%) of the license fees collected under the provisions of Chapter 84, Laws of Montana of 1937, to pay the expenses of Montana liquor control board in the administration of said act.

BOARD OF EQUALIZATION
FROM THE GENERAL FUND

For salaries fixed by law, fifteen thousand dollars.....$ 15,000.00

For other salaries and expenses, twenty-five thousand six hundred fifty dollars.....$ 25,650.00

For printing biennial report, fifteen hundred dollars....$ 1,500.00

FROM THE STATE PUBLIC SCHOOL GENERAL FUND

For salaries and expenses, four thousand dollars.....$ 4,000.00

GENERAL FIELD SUPERVISOR
FROM THE GENERAL FUND

For salaries and expenses, five thousand four hundred dollars .....$ 5,400.00

INCOME TAX DIVISION
FROM THE GENERAL FUND

For salaries and expenses, thirty-five thousand seven hundred thirty dollars.....$ 35,730.00

STORE LICENSE DIVISION
FROM THE GENERAL FUND

For salaries and expenses, nine thousand eight hundred dollars.....$ 9,800.00

CONTRACTORS' LICENSE DIVISION
FROM THE GENERAL FUND

For salaries and expenses, eighteen hundred dollars.....$ 1,800.00

CORPORATION LICENSE TAX DIVISION
FROM THE GENERAL FUND

For salaries and expenses, ten thousand three hundred thirty-two dollars.....$ 10,332.00

FROM THE STATE PUBLIC SCHOOL GENERAL FUND

For salaries and expenses, three thousand four hundred forty-three dollars.....$ 3,443.00

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GASOLINE, COAL AND OIL TAX DIVISION
FROM THE HIGHWAY FUND

For salaries and expenses, twenty-six thousand one hundred eighty dollars.....$ 26,180.00

FROM THE GENERAL FUND

For salaries and expenses, four thousand nine hun-hundred nine dollars.....$ 4,909.00

FROM THE STATE PUBLIC SCHOOL GENERAL FUND

For salaries and expenses, one thousand six hundred thirty-six dollars.....$ 1,636.00

FROM THE GASOLINE DRAWBACK FUND

For gasoline tax drawbacks, so much thereof as may be necessary to comply with the provisions of Section 2396.4, Revised Codes of Montana, 1935.

THEATRE LICENSE DIVISION
FROM THE GENERAL FUND

For salaries and expenses, four hundred seventy dollars.....$ 470.00

DEPARTMENT OF AGRICULTURE, LABOR AND INDUSTRY
ADMINISTRATION
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars.....$ 5,000.00

For other salaries, four thousand dollars.....$ 4,000.00

For capital, repairs and replacements, two hundred fifty dollars.....$ 250.00

For operation, one thousand five hundred dollars.....$ 1,500.00

DAIRY DIVISION
FROM THE GENERAL FUND

For salaries and expenses, three thousand dollars.....$ 3,000.00

FROM THE DAIRY DIVISION REVOLVING FUND

For salaries and expenses so much thereof as may be necessary for lawful claims wherein funds are available.

APIARY DIVISION OR BEE INSPECTION ACTIVITY
FROM THE GENERAL FUND

For salaries and expenses, two thousand five hundred dollars.....$2,500.00 (x) Vetoed

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GRAIN GRADING AND SCALE TESTING DIVISION
FROM THE GRAIN GRADING AND SCALE TESTING REVOLVING FUND

For salaries and expenses, so much thereof as may be necessary for lawful claims wherein funds are available.

HORTICULTURE DIVISION
FROM THE GENERAL FUND

For salaries and expenses, two thousand dollars.....$ 2,000.00

FROM THE HIGHWAY FUND

For salaries and expenses, six thousand dollars.....$ 6,000.00

FROM THE LIQUOR FUND

For salaries and expenses, two thousand five hundred dollars .....$ 2,500.00

FROM THE HORTICULTURE REVOLVING FUND (352-B)

For salaries and expenses, so much thereof as may be necessary to pay lawful claims wherein funds are available.

FROM THE HORTICULTURE REVOLVING FUND (219)

For salaries and expenses, so much thereof as may be necessary to comply with the provisions of Section 3634.1, Revised Codes of Montana, 1935.

DIVISION OF LABOR AND PUBLICITY
FROM THE GENERAL FUND

For salaries and expenses, ten thousand dollars.....$ 10,000.00 and in addition thereto there is hereby appropriated all federal funds that are made available.

REAL ESTATE DIVISION
FROM THE REAL ESTATE REVOLVING FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims wherein funds are available.

DIVISION OF COMMERCIAL FERTILIZER
FROM THE FERTILIZER REVOLVING FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims wherein funds are available.

STATE FAIR REVOLVING FUND

So much thereof as may be necessary for maintenance and repairs of state fair grounds.

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PURCHASING AGENT

FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars.....$ 5,000.00

For other salaries and expenses, three thousand eight hundred seventy-five dollars.....$ 3,875.00

FROM THE HIGHWAY FUND

For salaries and expenses, thirteen thousand five hundred dollars.....$ 13,500.00

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, five thousand dollars.....$ 5,000.00

FROM THE FISH AND GAME FUND

For salaries and expenses, one thousand dollars .....$1,000.00 (x) Vetoed

FROM THE HIGHWAY PATROL REVOLVING FUND

For salaries and expenses, one thousand dollars.....$ 1,000.00

STATE FORESTER
ADMINISTRATION

FROM THE GENERAL FUND

For salaries fixed by law, three thousand dollars.....$ 3,000.00

For other salaries, four thousand five hundred fifty dollars .....$ 4,550.00

For capital, repairs and replacements, four hundred dollars .....$ 400.00

For operation, six hundred seventy-five dollars.....$ 675.00

For exchange of lands, four hundred fifty dollars.....$ 450.00

FOR PROTECTION OF STATE LANDS

FROM THE GENERAL FUND

For salaries and expenses, thirteen thousand four hundred fifty dollars.....$ 13,450.00

TIMBER SALES

FROM THE GENERAL FUND

For salaries and expenses, five thousand eight hundred seventy dollars.....$ 5,870.00

In addition to the above appropriations, there is hereby appropriated all revenue received by the foresters' cooperative fund for the use in protection of state lands and brush and slash disposal; provided, however, no administrative salaries shall be increased by reason of the use of this fund.

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MOTOR VEHICLE DEPARTMENT
FROM THE MOTOR VEHICLE FUND

So much thereof as may be necessary to pay lawful claims to be collected from the motor vehicle funds of the respective counties in proportion to the number of cars registered in each county, as provided in Section 1760, Revised Codes of Montana, 1935.

FROM THE MOTOR VEHICLE RECORDING FUND

For salaries and expenses, so much thereof as may be necessary to pay all claims of the motor vehicle division wherein funds are available. The moneys available in this fund shall be used first, before using any funds from the motor vehicle fund.

ATHLETIC COMMISSION
FROM THE VETERANS' MEMORIAL FUND

So much thereof as may be necessary to pay lawful claims as provided in Section 4551, Revised Codes of Montana, 1935.

SALARIES AND EXPENSES OF DISTRICT JUDGES
FROM THE GENERAL FUND

For salaries of district judges, one hundred ten thousand four hundred dollars.....$110,400.00

For expenses, twelve thousand six hundred dollars....$ 12,600.00

SALARIES OF COUNTY ATTORNEYS
FROM THE GENERAL FUND

For salaries, fifty thousand dollars.....$ 50,000.00

TRANSPORTATION OF PRISONERS
FROM THE GENERAL FUND

For the purpose of paying the expenses of transporting prisoners, nine thousand dollars.....$ 9,000.00

REGULATORY BOARDS

All regulatory boards for which the law provides for a collection of fees and such fees are deposited with the state treasurer, are hereby appropriated for the use of each of the said boards, a sum equal to the amount of their collections, except wherein the law provides for deductions.

The following boards are enumerated as regulatory boards now having their funds on deposit with the state treasurer:

STATE EXAMINING BOARD OF ABSTRACTORS
BOARD OF ARCHITECTURAL EXAMINERS
BOARD OF CHIROPRACTIC EXAMINERS
BOARD OF MEDICAL EXAMINERS

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MILK CONTROL BOARD
STATE EXAMINING BOARD FOR NURSES
OIL CONSERVATION BOARD
BOARD OF EXAMINERS IN PHOTOGRAPHY

FIRE INSURANCE ON STATE BUILDINGS AND CONTENTS
FROM THE GENERAL FUND

For fire insurance premiums on all buildings and contents for the following institutions and departments: State capitol group, school for deaf and blind, orphans' home, industrial school, vocational school, state prison, state hospital, tuberculosis sanitarium, soldiers' home, Montana state fair, Montana training school, fifteen thousand dollars.....$ 15,000.00

FROM THE UNIVERSITY MILLAGE FUND

For fire insurance premiums on buildings and contents of the Greater University of Montana, five thousand dollars .....$ 5,000.00

FROM THE FISH AND GAME FUND

For fire insurance premiums on buildings and contents owned by the fish and game department, two thousand dollars.....$2,000.00 (x) Vetoed

FROM THE HIGHWAY FUND

For fire insurance premiums on buildings and contents owned by the highway department, three thousand dollars .....$ 3,000.00

Section 4. Provided, further, that all appropriations contained herein shall be used for the purposes designated and no other, and the definitions given in Section 1 of this act shall govern all appropriations, and no claim shall be approved by the state board of examiners for payment out of any fund for which an appropriation is made herein until and unless the department, board, bureau, commission or institution against which such claim is presented shall have certified the same as a just and legal claim.

Section 5. It is further provided that wherein departments or institutions have appropriations from sources other than the general fund, excepting trust funds wherein a specific law governs, the money from such other sources shall be used, when available, before using the appropriations from the general fund. Provided, however, that such restrictions shall not apply to monies accruing from special tax on livestock.

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Section 6. Appropriations contained herein shall not be used for travel to conventions, teachers' meetings, association meetings, or gatherings of like character, wherein said meetings are held outside the State of Montana, except by special permission of the state board of examiners.

Section 7. Appropriations here above provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

STATE OF MONTANA

Office of the Governor

HELENA

ROY E. AYERS.
GOVERNOR

March 11, 1939.

Honorable Sam W. Mitchell,
Secretary of State,
Helena, Montana

Dear Sir:

The within, foregoing and hereunto attached bill, which is House Bill Number 363, introduced by the appropriations committee, "An act to appropriate money for the operation, maintenance and other purposes, as designated herein, for all state departments, boards, bureaus, commissions and institutions for the period beginning July 1, 1939, and ending June 30, 1941", and all of the items therein are hereby this day duly approved, save and except as to the items hereafter enumerated, which said items are disapproved and vetoed for the reasons hereafter stated.

The item in Section Two of this bill under the general heading of "department of agriculture, labor and industry", appropriating from the general fund $2500.00 for salaries and expenses for apiary division, or bee inspection activities, is vetoed and disapproved for the reason that no provision is made for an organization set up under this appropriation whereby it may become self-liquidating in whole or in part.

A like item in Section Three of this bill and under the same general heading and appropriating $2500.00 from the general fund for the same purpose is likewise vetoed and disapproved for the same reason as above set forth.

The item in Section Two under the general heading of "state purchasing agent", and which appropriates from the fish and game

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fund $1,000.00 for salaries and expenses is hereby disapproved and vetoed for the reason that the purchases to be made for the fish and game department can properly be made under the general appropriation for the purchasing agent.

A like item in Section Three of this bill and under the same general heading and appropriating $1,000.00 from the general fund for the same purpose is likewise vetoed and disapproved for the same reason as above set forth.

The item under Section Two of this bill under the general heading of "fire insurance of state buildings and contents", appropriating $3,000.00 from the fish and game fund for fire insurance premiums on buildings and contents used by the fish and game department is disapproved and vetoed for the reason that there is and will be adequate money in the general appropriation for the fish and game commission to pay such insurance premiums out of that fund, and therefore this special appropriation for such purpose is not necessary.

A like item in Section Three of this bill and under the same general heading and appropriating $2,000.00 from the fish and game fund for the same purpose is likewise vetoed and disapproved for the same reason as above set forth.

Respectfully yours,

ROY E. AYERS,
Governor.

HOUSE BILL NO. 410

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes as Designated Herein, for Certain State Departments and Offices for the Period Beginning July 1, 1939 and Ending June 30, 1941.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed

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or hired for a period of less than one month, the payment of which is hereby made a proper charge from funds appropriated for "operation".

(2) The term "capital", unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event, shall the term "capital" mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term "repairs" means the amount to be paid for the repair of any capital asset, including buildings or lands.

(4) The term "replacements" means the amount to be paid for the replacing of any capital asset, as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original asset being worn out or broken.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expense" means any expense, including salaries, capital, repairs and replacements and operation, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) When reference is made herein to any Chapter or Section of the Laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1939, and ending June 30, 1940.

GOVERNOR'S OFFICE

FROM THE GENERAL FUND

For salaries fixed by law, thirteen thousand dollars.....$ 13,000.00

For salaries not fixed by law, twenty-seven hundred dollars .....$ 2,700.00

For capital, repairs and replacements, two hundred dollars .....$ 200.00

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For operation, twenty-three hundred dollars.....$ 2,300.00
For requisitions, forty-eight hundred dollars.....$ 4,800.00
For special investigation, one thousand dollars.....$ 1,000.00

GOVERNOR'S MANSION OR HOME
FROM THE GENERAL FUND

For salaries and expenses of the governor's mansion or home, four thousand dollars.....$ 4,000.00

SECRETARY OF STATE
FROM THE GENERAL FUND

For salaries fixed by law, seventy-two hundred dollars $ 7,200.00
For salaries not fixed by law, seventy-five hundred dollars .....$ 7,500.00
For salaries additional help recording right-of-way easements, twelve hundred dollars.....$ 1,200.00
For capital, repairs and replacements, seven hundred fifty dollars.....$ 750.00
For operation, two thousand dollars.....$ 2,000.00
Election expenses: Publishing constitutional amendments, initiative and referendum measures, printing and binding election laws, four thousand dollars.....$ 4,000.00

ATTORNEY GENERAL
FROM THE GENERAL FUND

For salaries fixed by law, nineteen thousand two hundred dollars.....$ 19,200.00
For salaries not fixed by law, thirty-six hundred dollars .....$ 3,600.00
For capital, repairs and replacements, four hundred dollars .....$ 400.00
For operation and law enforcement expenses, five thousand dollars.....$ 5,000.00

FARM LOAN DIVISION
FROM THE GENERAL FUND

For salaries and expenses, five thousand dollars .....$5,000.00 (x) Vetoed

STATE TREASURER
FROM THE GENERAL FUND

For salaries fixed by law, eighty-four hundred dollars..$ 8,400.00
For salaries not fixed by law, eight thousand dollars....$ 8,000.00

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For capital, repairs and replacements, three hundred dollars ..... $ 300.00

For replacing bookkeeping machine, twelve hundred dollars ..... $ 1,200.00

For burglar-proof repairs to office, eight hundred dollars ..... $ 800.00

For operation, twenty-three hundred dollars ..... $ 2,300.00

STATE AUDITOR
AUDITOR'S DIVISION
FROM THE GENERAL FUND

For salaries fixed by law, sixty-six hundred dollars ..... $ 6,600.00

For salaries not fixed by law, fifty-four hundred dollars ..... $ 5,400.00

For capital, repairs and replacements, four hundred dollars ..... $ 400.00

For operation, one thousand dollars ..... $ 1,000.00

FROM THE HIGHWAY FUND

For salaries not fixed by law, thirty-five hundred dollars ..... $ 3,500.00

For operation and expense, three thousand dollars ..... $ 3,000.00

INSURANCE DEPARTMENT
FROM THE GENERAL FUND

For salaries fixed by law, fifty-seven hundred dollars ..... $ 5,700.00

For salaries not fixed by law, seventy-five hundred dollars ..... $ 7,500.00

For capital, repairs and replacements, three hundred dollars ..... $ 300.00

For operation, fifty-three hundred dollars ..... $ 5,300.00

INVESTMENT COMMISSIONER
FROM THE GENERAL FUND

For salaries not fixed by law, thirty-nine hundred dollars ..... $ 3,900.00

For operation, one thousand ninety dollars ..... $ 1,090.00

FIRE MARSHAL
FROM THE FIRE MARSHAL'S FUND

As much as may be necessary, of all collections, to pay lawful claims as provided in Section 2761, Revised Codes of Montana, 1935.

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FROM THE FIREMEN'S DISABILITY FUND

For the payment of the distribution of the firemen's disability fund, as provided in Section 5127 of the Revised Codes of Montana, 1935, an appropriation sufficient to meet the requirements as provided by law.

SUPERINTENDENT OF PUBLIC INSTRUCTION
FROM THE GENERAL FUND

For salaries fixed by law, sixty-one hundred dollars	$ 6,100.00
For salaries not fixed by law, fifty-one hundred dollars	$ 5,100.00
For capital, repairs and replacements, two hundred dollars	$ 200.00
For operation, fifty-two hundred dollars	$ 5,200.00

SCHOOL SUPERVISORS
FROM THE GENERAL FUND

For salaries for supervisors as provided in Chapter 149, Session Laws, 1937, five thousand dollars	$ 5,000.00
For operation, fourteen hundred dollars	$ 1,400.00

CERTIFICATION DEPARTMENT
FROM THE TEACHERS' CERTIFICATE FUND

All fees and collections are hereby appropriated to carry out the provisions of Section 1095, Revised Codes of Montana, 1935.

SUPREME COURT
FROM THE GENERAL FUND

For salaries fixed by law, forty-eight thousand one hundred dollars	$ 48,100.00
For salaries not fixed by law, three thousand dollars	$ 3,000.00
For capital, repairs and replacements, three hundred dollars	$ 300.00
For operation, seventeen hundred dollars	$ 1,700.00
For Montana reports, thirty-seven hundred dollars	$ 3,700.00

ATTORNEY'S LICENSING BOARD
FROM ATTORNEY'S LICENSING FUND

All fees and collections as may be found necessary in carrying out the provisions of Section 8936 to Section 8974 of the Revised Codes of Montana, 1935.

RAILROAD COMMISSION
RAILROAD AND PUBLIC SERVICE DIVISION
FROM THE GENERAL FUND

For salaries fixed by law, twelve thousand dollars	$ 12,000.00

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For salaries not fixed by law, ten thousand nine hundred dollars.....$ 10,900.00

For capital, repairs and replacements, two hundred fifty dollars.....$ 250.00

For operation, four thousand dollars.....$ 4,000.00

For pleading I. C. C. cases, three thousand dollars.....$ 3,000.00

For publishing maps, seven hundred fifty dollars.....$ 750.00

For salaries and expenses of fair trade practice act, six thousand dollars.....$ 6,000.00

In addition thereto, there is hereby appropriated all monies of the motor carrier fund and the gasoline inspection fund as may be necessary in carrying out all the duties of the railroad and public service commission.

Section 3. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1940, and ending June 30, 1941.

GOVERNOR'S OFFICE
FROM THE GENERAL FUND

For salaries fixed by law, thirteen thousand dollars.....$ 13,000.00

For salaries not fixed by law, twenty-seven hundred dollars.....$ 2,700.00

For capital, repairs and replacements, two hundred dollars.....$ 200.00

For operation, twenty-three hundred dollars.....$ 2,300.00

For requisitions, forty-eight hundred dollars.....$ 4,800.00

For special investigation, one thousand dollars.....$ 1,000.00

GOVERNOR'S MANSION OR HOME
FROM THE GENERAL FUND

For salaries and expenses of the governor's mansion or home, four thousand dollars.....$ 4,000.00

SECRETARY OF STATE
FROM THE GENERAL FUND

For salaries fixed by law, seventy-two hundred dollars $ 7,200.00

For salaries not fixed by law, seventy-five hundred dollars.....$ 7,500.00

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For salaries additional help recording right-of-way easements, twelve hundred dollars.....$ 1,200.00
For capital, repairs and replacements, five hundred dollars.....$ 500.00
For operation, two thousand dollars.....$ 2,000.00
Election expenses: Publishing constitutional amendments, initiative and referendum measures, printing and binding election laws, fifteen thousand dollars.....$ 15,000.00

ATTORNEY GENERAL
FROM THE GENERAL FUND

For salaries fixed by law, nineteen thousand two hundred dollars.....$ 19,200.00
For salaries not fixed by law, thirty-six hundred dollars.....$ 3,600.00
For capital, repairs and replacements, four hundred dollars.....$ 400.00
For operation, three thousand dollars.....$ 3,000.00

FARM LOAN DIVISION
FROM THE GENERAL FUND

For salaries and expenses, five thousand dollars.....$5,000.00 (x) Vetoed

STATE TREASURER
FROM THE GENERAL FUND

For salaries fixed by law, eighty-four hundred dollars..$ 8,400.00
For salaries not fixed by law, eight thousand dollars..$ 8,000.00
For capital, repairs and replacements, three hundred dollars.....$ 300.00
For operation, twenty-three hundred dollars.....$ 2,300.00

STATE AUDITOR
AUDITOR'S DIVISION
FROM THE GENERAL FUND

For salaries fixed by law, sixty-six hundred dollars....$ 6,600.00
For salaries not fixed by law, five thousand dollars.....$ 5,000.00
For capital, repairs and replacements, four hundred dollars.....$ 400.00
For operation, one thousand dollars.....$ 1,000.00

FROM THE HIGHWAY FUND

For salaries not fixed by law, thirty-five hundred dollars.....$ 3,500.00
For operation and expense, three thousand dollars.....$ 3,000.00

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INSURANCE DEPARTMENT
FROM THE GENERAL FUND

For salaries fixed by law, fifty-seven hundred dollars..$ 5,700.00
For salaries not fixed by law, five thousand dollars....$ 5,000.00
For capital, repairs and replacements, three hundred dollars .....$ 300.00
For operation, four thousand dollars.....$ 4,000.00

INVESTMENT COMMISSIONER
FROM THE GENERAL FUND

For salaries not fixed by law, thirty-nine hundred dollars .....$ 3,900.00
For operation, one thousand ninety dollars.....$ 1,090.00

FIRE MARSHAL
FROM THE FIRE MARSHAL'S FUND

As much as may be necessary, of all collections, to pay lawful claims as provided in Section 2761, Revised Codes of Montana, 1935.

FROM THE FIREMEN'S DISABILITY FUND

For the payment of the distribution of the firemen's disability fund, as provided in Section 5127 of the Revised Codes of Montana, 1935, an appropriation sufficient to meet the requirements as provided by law.

SUPERINTENDENT OF PUBLIC INSTRUCTION
FROM THE GENERAL FUND

For salaries fixed by law, sixty-one hundred dollars....$ 6,100.00
For salaries not fixed by law, fifty-one hundred dollars .....$ 5,100.00
For capital, repairs and replacements, two hundred dollars .....$ 200.00
For operation, fifty-two hundred dollars.....$ 5,200.00

SCHOOL SUPERVISORS
FROM THE GENERAL FUND

For salaries for supervisors as provided in Chapter 149, Session Laws, 1937, five thousand dollars.....$ 5,000.00
For operation, fourteen hundred dollars.....$ 1,400.00

CERTIFICATION DEPARTMENT
FROM THE TEACHERS' CERTIFICATE FUND

All fees and collections are hereby appropriated to carry out the provisions of Section 1095, Revised Codes of Montana, 1935.

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SUPREME COURT

FROM THE GENERAL FUND

For salaries fixed by law, forty-eight thousand one hundred dollars.....$ 48,100.00
For salaries not fixed by law, three thousand dollars....$ 3,000.00
For capital, repairs and replacements, three hundred dollars.....$ 300.00
For operation, seventeen hundred dollars.....$ 1,700.00
For Montana reports, thirty-seven hundred dollars.....$ 3,700.00

ATTORNEYS' LICENSING BOARD

FROM ATTORNEYS' LICENSING FUND

All fees and collections as may be found necessary in carrying out the provisions of Section 8936 to Section 8974 of the Revised Codes of Montana, 1935.

RAILROAD COMMISSION

RAILROAD AND PUBLIC SERVICE DIVISION

FROM THE GENERAL FUND

For salaries fixed by law, twelve thousand dollars.....$ 12,000.00
For salaries not fixed by law, ten thousand nine hundred dollars.....$ 10,900.00
For capital, repairs and replacements, two hundred fifty dollars.....$ 250.00
For operation, four thousand five hundred dollars.....$ 4,500.00
For pleading I. C. C. cases, three thousand dollars.....$ 3,000.00
For salaries and expenses of fair trade practice act, four thousand dollars.....$ 4,000.00

In addition thereto, there is hereby appropriated all monies of the motor carrier fund and the gasoline inspection fund as may be necessary in carrying out all the duties of the railroad and public service commission.

Section 4. It is further provided that in the appropriations for the state treasurer, contained herein, no provision is made for the printing of the state treasurer's quarterly report.

Section 5. It is further provided that all appropriations contained herein shall be used for the purposes designated and no other, and wherein appropriations are made for sub-divisions, the appropriations given are not interchangeable between divisions, and the definitions given in Section 1 of the act shall govern all appropriations.

Section 6. Appropriations contained herein shall not be used for travel to conventions, teachers' meetings, association meetings or

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gatherings of like character, wherein the said meetings are held outside of the State of Montana except by special permission of the state board of examiners who may deem it necessary for attendance on such meetings. The state board of examiners shall spread on their minutes the reasons for their permission.

Section 7. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

STATE OF MONTANA

Office of the Governor

HELENA

ROY E. AYERS,
GOVERNOR

March 17, 1939.

Honorable Sam W. Mitchell,
Secretary of State,
Helena, Montana

Dear Sir:

The within, foregoing and hereunto attached bill, which is House Bill No. 410, introduced by the appropriations committee, entitled "An act to appropriate money for the operation, maintenance and other purposes as designated herein, for certain state departments and offices for the period beginning July 1, 1939, and ending June 30, 1941", and all of the items therein are hereby this day duly approved, save and except as to the items hereafter enumerated, which said items are disapproved and vetoed for the reasons hereafter stated.

The item in Section Two of this bill under the general heading of "attorney general" which is listed as farm loan division, and which appropriates from the general fund $5,000.00 for salaries and expenses for the farm loan division.

This division was created many years ago when the state had a great many farm loans, as a matter of fact, there was a total of 2363 of these farm loans and a great many foreclosures and merging of contracts was necessary. That particular department in the state land division has now been reduced to only 81 loans, all of which are now in good standing, and I cannot see the necessity of keeping up this division at an annual expenditure of $5,000.00.

This division was necessary originally to the end that these loans be foreclosed and that title reverted to the State, but now that it

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has been reduced from 2363 to 81 loans, all of which are in good standing, I cannot see the necessity of this expenditure, and therefore, I hereby disapprove and veto the above-named item amounting to $5,000.00.

A like item under Section Three of this bill and under the same general heading and appropriating $5,000.00 from the general fund for the same purpose is likewise disapproved and vetoed for the same reason as above set forth.

Yours very truly,

ROY E. AYERS,
Governor.

HOUSE BILL NO. 414

An Act to Appropriate Money for the Purpose of Repayment of Overpayment of Corporation License Taxes and Electric Energy Taxes Paid to the State of Montana and Authorizing the Repayment of Same from the General Fund of the State.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of repayment of overpayment of corporation license taxes and electric energy taxes paid to the State of Montana.

For the repayment of corporation license taxes from the general fund, seven thousand four hundred eighty-five and 35/100 dollars	$ 7,485.35

More particularly itemized as follows:

Great Western Sugar Company	$ 6,407.90
Lazy E. L. Ranch Corporation	17.39
Riggs Optical Company, Inc	100.00
Farmers' Union Elevator Company of Wolf Point	62.13
The Rocky Mountain Elevator Company	195.00
The Metropolitan Fire Reassurance Company	5.00
Birmingham Fire Insurance Company	5.88
Ryan Mercantile Company	20.10
Alberta-Pacific Consolidated Oils, Ltd	12.68
Farmers' Union Trading Company of Dillon	5.65
Montana Flour Mills Company	28.87

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Farmers' Union Oil Company of Arlee	10.00
Farmers' Union Oil Company of Kremlin	12.92
Farmers' Union Trading Company of Alder	26.49
Hingham Farmers' Oil Company	39.93
New Jersey Insurance Company	12.87
Hole Brothers Refinery, Shelby	477.55
Farmers' Union Oil Company of Garfield County	5.00
Farmers' Union Co-operative Oil Company of Willard	39.99
For the repayment of electric energy taxes to the Union electric, one thousand four hundred seventeen dollars and 77/100	1,417.77

Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

HOUSE BILL NO. 415

An Act to Appropriate Money for the Payment of a Deficiency Claim of Fred B. Sheriff for Services Rendered to the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury not otherwise appropriated, for the purpose of paying the claim of Fred B. Sheriff for services rendered to the State of Montana, four hundred sixty-five dollars and fifty-eight cents.....$ 465.58

Section 2. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

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HOUSE BILL NO. 416

An Act to Appropriate Funds for the Payment of Certain Deficiency Claims Arising for Obligations Incurred by the District Judges' Expense.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the following deficiency claims arising for obligations incurred by the district judges' expense.

For obligations incurred by the district judges' expense, one thousand thirty-two dollars and seventy-nine cents ..... $ 1,032.79

More particularly itemized as follows:

Albert Besancon	$	178.89
J. E. Rockwood	$	106.44
Frank P. Leiper	$	80.50
Rudolph Nelstead	$	187.78
Henry G. Rodgers	$	102.31
Benjamin E. Berg	$	53.37
George W. Padbury, Jr.	$	43.82
Guy C. Derry	$	86.84
Vernon Hoven	$	54.85
Ralph L. Arnold	$	51.39
William L. Ford	$	49.60
S. D. McKinnon	$	37.00

Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

HOUSE BILL NO. 417

An Act to Appropriate Money for the Payment of Certain Deficiency Claims Arising From the Operation of the Montana State College.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums of money or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the university millage fund, not otherwise appropriated, for the purpose of paying the following claims for obligations incurred by the Montana State College:

For obligations incurred by the Montana State College:
One thousand nine hundred and eighty-six and 09/100....$ 1,986.09

More particularly itemized as follows:

Industrial accident board	$ 598.92
Bozeman city water works	$ 274.42
The Montana Power Company	$ 1,112.75

Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

HOUSE BILL NO. 418

An Act to Appropriate Money for the Payment of a Deficiency Claim of C. C. Guinn for Expenses as a Member of the Text Book Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury not otherwise appropriated, for the purpose of paying the deficiency claim of C. C. Guinn for expenses as a member of the text book commission, twenty-six and 90/100 dollars ($26.90).

Section 2. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

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HOUSE BILL NO. 419

An Act to Appropriate Money for the State Department of Public Welfare of the State of Montana for Public Assistance, for Administrative Costs in the State Department and in the County Departments of Public Welfare and for All Other Expenditures That the State Department of Public Welfare Is Authorized to Incur, for the Period Beginning With March 2, 1939, and Terminating With June 30, 1939.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated for the state department of public welfare of the State of Montana out of any funds in the state treasury not otherwise appropriated, the sum of six hundred thousand dollars ($600,000.00) for public assistance, for administrative costs in the state department and in the county departments of public welfare and for all other expenditures that the state department of public welfare is authorized to incur for the period beginning with March 2, 1939, and terminating with June 30, 1939.

The appropriations hereby made shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 2. The sum of six hundred thousand dollars ($600,000.00) hereby appropriated shall be earmarked for the following purposes by the state department of public welfare.

(1) For old age assistance the sum of two hundred eighteen thousand dollars.....$218,000.00

(2) For aid to needy dependent children the sum of sixty-seven thousand dollars.....$ 67,000.00

(3) For aid to the needy blind the sum of three thousand four hundred dollars.....$ 3,400.00

(4) For services to crippled children, including all state administrative costs, the sum of eight thousand three hundred dollars.....$ 8,300.00

(5) For child welfare services, including all state administrative costs, the sum of three thousand three hundred dollars.....$ 3,300.00

(6) For general relief and contingencies two hundred forty thousand dollars.....$240,000.00

(7) For administrative costs of the state department not otherwise provided for and including part of the

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compensation and expenses of the personnel staff attached to county welfare boards, the sum of sixty thousand dollars.....$ 60,000.00

Section 3. In addition to the foregoing appropriations of six hundred thousand dollars ($600,000.00) there is hereby appropriated to the state department of public welfare for public assistance, for administrative costs in the state department and in the county departments of public welfare and for all other expenditures that the state department of public welfare is authorized to incur for the period beginning with March 2, 1939, and terminating with June 30, 1939, all balances remaining unexpended of the appropriations made for that department for the two-year period terminating with March 1, 1939, including all claims of the department against counties for reimbursements of their shares of old age assistance, aid to needy dependent children, aid to needy blind, administrative costs, and all other outstanding claims of the department.

Section 4. Any money hereby appropriated for the state department of public welfare and earmarked for any specific account or purpose not needed for such account or purpose may be transferred by the state board of examiners to any other account or purpose under the authority of the department. Such transfer shall be effective and be deemed completed when the state board of examiners has entered an order for the transfer upon its minutes and the state auditor has been notified of the action taken; provided, however, that no part of items 1, 2, 3, 4, 5, and 6 shall be transferred to the account for administrative costs.

Section 5. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Section 6. This act shall be in full force and effect from and after its passage and approval by the governor.

Approved March 3, 1939.

HOUSE BILL NO. 421

An Act to Appropriate Money for the Payment of Per Diem to the Officers and Attaches and for Incidental Expenses of the Twenty-sixth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated, out of any

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money in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed, but for no other:

For the payment of per diem to the officers and attaches of the twenty-sixth legislative assembly of the State of Montana, twenty-six thousand dollars.....$ 26,000.00

For the payment of incidental expenses of the twenty-sixth legislative assembly of the State of Montana, sixteen thousand five hundred dollars.....$ 16,500.00

Section 2. Any amount or amounts remaining in any appropriation for the twenty-sixth legislative assembly may be transferred to supplement the amount or amounts remaining in any other appropriations for the twenty-sixth legislative assembly; provided, that the aggregate amount of all such appropriations shall be neither increased or decreased.

Section 3. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 18, 1939.

HOUSE BILL NO. 422

An Act to Appropriate Money for the Payment of Expenses Incurred by the Occupational Disease Commission Appointed by the Governor of the State of Montana as Authorized by Senate Joint Resolution No. 6, of the Twenty-fifth Legislative Assembly of the State of Montana of 1937.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed: For the payment of expenses incurred by the occupational disease commission as authorized by Senate Joint Resolution No. 6, of the twenty-fifth session of the legislative assembly of the State of Montana, 1937, one thousand eighty dollars ($1,080.00).

Section 2. No claims arising out of the operation of or expenses incurred by the occupational disease commission, and for which

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this appropriation is made, shall be paid unless proper claims shall have been first duly filed with and approved by the state board of examiners.

Section 3. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1939.

HOUSE BILL NO. 423

An Act to Appropriate Money for Certain Elective Offices and State Institutions and Capitol Building for the Fiscal Year Ending June 30, 1939, It Having Been Determined That the Appropriations Made by the Twenty-fifth Legislative Assembly Are Insufficient.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the general fund of the state treasury, and from the university millage fund, not otherwise appropriated, for the objects and purposes hereinafter expressed for the fiscal year ending June 30, 1939, it having been determined that the appropriations made by the twenty-fifth legislative assembly for said fiscal year are insufficient.

EXPENSES OF DISTRICT JUDGES

FROM THE GENERAL FUND

For expenses of district judges, fifteen hundred dollars $ 1,500.00

STATE TREASURER

FROM THE GENERAL FUND

For premiums on official bonds for clerks in the state treasurer's office, eight hundred seventy dollars.....$ 870.00

SUPREME COURT

FROM THE GENERAL FUND

For salaries fixed by law, twelve hundred fifty dollars $ 1,250.00

For salaries not fixed by law, fifty-seven dollars.....$ 57.00

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STATE NORMAL COLLEGE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, four thousand six hundred thirty-one dollars and forty-seven cents.....$ 4,631.47

MONTANA TRAINING SCHOOL
FROM THE GENERAL FUND

For salaries and expenses, fifteen thousand dollars.....$ 15,000.00

SOLDIERS' HOME
FROM THE GENERAL FUND

For replacing smokestack, thirteen hundred and fifty dollars .....$ 1,350.00

CAPITOL BUILDING
FROM THE GENERAL FUND

For rewiring and electrical fixtures state board of health building, five thousand dollars.....$ 5,000.00

Section 2. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

HOUSE BILL NO. 426

An Act to Appropriate Money for the Use of the Water Conservation Board of the State of Montana for the Administration Fund and for the Conservation Revolving Fund of the Water Conservation Board for the Period Beginning March 1, 1939, and Ending March 1, 1941.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That there is hereby appropriated for the use of the water conservation board or to any other board or agency exercising the functions of said board of the State of Montana, and for the purpose of carrying out the provisions of the water conservation act, acts amendatory thereto and supplementary thereof, and such other authority powers and duties as are conferred upon the water conservation board by law, the following sums from the sources hereinafter designated:

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(a) For the year ending March 1, 1940, for the conservation revolving fund of the water conservation board, the sum of three hundred fifty thousand dollars ($350,000.00) out of any monies in the state treasury not otherwise appropriated.

(b) For the year ending March 1, 1941, for the conservation revolving fund of the water conservation board, the sum of three hundred fifty thousand dollars ($350,000.00) out of any monies in the state treasury not otherwise appropriated.

(c) For the year ending March 1, 1940, for the administration fund of the water conservation board, the sum of ninety thousand dollars ($90,000.00) out of any monies in the state treasury not otherwise appropriated, with authority in the state water conservation board, acting as the state planning board, to budget and spend such of its administration fund as in the judgment of the board is necessary and desirable in each year for the activities of the state planning board, not to exceed ten thousand dollars ($10,000.00).

(d) For the year ending March 1, 1941, for the administration fund of the water conservation board, the sum of ninety thousand dollars ($90,000.00) out of any monies in the state treasury not otherwise appropriated, with authority in the state water conservation board, acting as the state planning board, to budget and spend such of its administration fund as in the judgment of the board is necessary and desirable in each year for the activities of the state planning board, not to exceed ten thousand dollars ($10,000.00).

(e) In addition to the above appropriation all monies to be paid or to be repaid the water conservation board from any source and not expressly appropriated and all monies remaining in said administration fund on March 1, 1939, and all monies remaining in said conservation revolving fund on March 1, 1939, are hereby reappropriated.

Section 2. Appropriations hereinabove provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1939.

HOUSE BILL NO. 427

An Act to Appropriate Money for the State Department of Public Welfare of the State of Montana for Public Assistance, for Ad-

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ministrative Costs in the State Department and in the County Departments of Public Welfare and for All Other Expenditures That the State Department of Public Welfare Is Authorized to Incur, for the Period Beginning With July 1, 1939, and Terminating With June 30, 1941.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated for the state department of public welfare of the State of Montana out of any funds in the state treasury not otherwise appropriated, the sum of two million one thousand dollars ($2,001,000.00) for public assistance, for administrative costs in the state department and in the county departments of public welfare and for all other expenditures that the state department of public welfare is authorized to incur for the fiscal year beginning with July 1, 1939, and terminating with June 30, 1940.

Section 2. Without hereby limiting the powers of the state board of public welfare, as in this act otherwise provided, the amounts appropriated in the above Section and paid to the public welfare fund from the state treasury shall be earmarked for the following purposes:

(1) For old age assistance the sum of nine hundred ninety thousand dollars.....$990,000.00

(2) For aid to needy dependent children the sum of three hundred thousand dollars.....$300,000.00

(3) For aid to the needy blind the sum of sixteen thousand five hundred dollars.....$ 16,500.00

(4) For services to crippled children, including all state administrative costs, the sum of forty thousand dollars.....$ 40,000.00

(5) For child welfare services, including all state administrative costs, the sum of fifteen thousand dollars..$ 15,000.00

(6) For general relief and contingencies, four hundred thirty-nine thousand five hundred dollars.....$439,500.00

(7) For administrative costs of the state department not otherwise provided for and including part of the compensation and expenses of the personnel staff attached to county welfare boards, the sum of two hundred thousand dollars.....$200,000.00

Section 3. There is hereby appropriated for the state department of public welfare of the State of Montana out of any funds in the

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state treasury not otherwise appropriated, the sum of two million one thousand dollars ($2,001,000.00) for public assistance, for administrative costs in the state department and in the county departments of public welfare and for all other expenditures that the state department of public welfare is authorized to incur for the period beginning with July 1, 1940, and terminating with June 30, 1941.

Section 4. Without hereby limiting the powers of the state board of public welfare, as in this act otherwise provided, the amounts appropriated in the above Section and paid to the public welfare fund from the state treasury shall be earmarked for the following purposes:

(1) For old age assistance the sum of nine hundred ninety thousand dollars.....$990,000.00

(2) For aid to needy dependent children the sum of three hundred thousand dollars.....$300,000.00

(3) For aid to the needy blind the sum of sixteen thousand five hundred dollars.....$ 16,500.00

(4) For services to crippled children, including all state administrative costs, the sum of forty thousand dollars.....$ 40,000.00

(5) For child welfare services, including all state administrative costs, the sum of fifteen thousand dollars....$ 15,000.00

(6) For general relief and contingencies, four hundred thirty-nine thousand five hundred dollars.....$439,500.00

(7) For administrative costs of the state department not otherwise provided for and including part of the compensation and expenses of the personnel staff attached to county welfare boards, the sum of two hundred thousand dollars.....$200,000.00

Section 5. In addition to the foregoing appropriations, there is hereby appropriated for both of the fiscal years mentioned herein, all funds which may be received from counties as reimbursements for the purposes for which they are designated and any other funds which may be received by the department of public welfare.

Section 6. Any money hereby appropriated for the state department of public welfare and earmarked for any specific account or purpose not needed for such account or purpose may be transferred by the state board of examiners to any other account or purpose under the authority of the department. Such transfer shall be effective and be deemed completed when the state board of

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examiners has entered an order for the transfer upon its minutes and the state auditor has been notified of the action taken; provided, however, that no part of items 1, 2, 3, 4, 5, and 6 shall be transferred to the account, numbered 7, for administrative costs.

Section 7. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 9, 1939.

HOUSE MEMORIAL NO. 1

A Memorial to the Congress of the United States of America Protesting the Reduction of the $875,000,000 Asked by President Franklin D. Roosevelt for Works Progress Administration Purposes, to $725,000.000.

To the Honorable Senate and the House of Representatives of the United States in Congress Assembled:

WHEREAS, The house of representatives of the United States has cut the appropriation for works progress administration purposes to $725,000,000 from $875,000,000, the amount requested by President Franklin D. Roosevelt, and

WHEREAS, Such a reduction would cause great distress and serious conditions in Montana due to increased unemployment in private industry.

NOW, THEREFORE, BE IT RESOLVED That the twenty-sixth legislative assembly of the State of Montana, the senate and house concurring, does hereby protest the reduction of the appropriation for works progress administration purposes and respectfully petition and request the congress of the United States to restore to the sum of $875,000,000 the appropriation for said works progress administration purposes as requested by President Franklin D. Roosevelt, and

BE IT FURTHER RESOLVED That copies of this memorial be transmitted by the secretary of state of the State of Montana to the Honorable Franklin D. Roosevelt, president of the United States. the Honorable B. K. Wheeler and the Honorable James E. Murray, United States senators, and to the Honorable James F. O'Connor and the Honorable J. Thorkelson, United States representatives of the State of Montana.

Filed January 25, 1939.

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HOUSE MEMORIAL NO. 2

A Memorial Urging the Congress of the United States to Cause a Completion of the Lewis and Clark Highway.

To the Honorable Senate and House of Representatives of the United States of America in Congress Assembled:

We, your memorialists, the house of representatives of the twenty-sixth legislative assembly of the State of Montana, respectfully represent that:

WHEREAS, There exists within the Pacific northwest a condition of economic distress which has caused widespread unemployment creating much suffering and want of necessities of life among a great many of the people of said area, and

WHEREAS, The Pacific northwest is without proper military protection in that the said section is wholly cut off from the east by the Bitter Root mountains with only one passage through said range from the Canadian border to Bannack Pass, a distance of some eight hundred (800) miles, and

WHEREAS, It has become the public policy as well as the urgent need of the United States to take affirmative steps to relieve the conditions aforesaid, and

WHEREAS, The Lewis and Clark highway follows a low elevation water grade from Portland, Oregon, across the states of Oregon, Washington and Idaho, through the Lolo Pass, the lowest pass in the Bitter Root range and which is centrally located, to Missoula, Montana, and will provide an adequate military and commercial route which is so badly needed, and

WHEREAS, The Lewis and Clark highway has been completed with the exception of only fifty (50) miles which lies wholly within the national forests of Idaho and appropriations for forest roads in national forests, which in Idaho cover 34,000,000 of its total 53,000,000 acres, are inadequate to provide for completion of said highway from that source, and

WHEREAS, These national forests are of the largest, most beautiful, interesting and valuable of the national forests, affording unsurpassed recreational opportunities for the people of the entire nation and are not accessible either by rail or national highway, and

WHEREAS, This highway would be of great benefit to the states of Idaho, Montana, Washington and Oregon to facilitate marketing

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of their products; would provide adequate military protection to the Pacific northwest; would provide adequate employment to reduce the critical effect of the present economic distress in this area and would stimulate national trade and commerce, and

WHEREAS, The Lewis and Clark highway has been designated as eligible for federal aid,

NOW THEREFORE, BE IT RESOLVED, That the house of representatives of the twenty-sixth legislative assembly of the State of Montana, does most respectfully urge on the congress of the United States that the said congress pass such legislation and make the necessary appropriations to provide for the complete construction of the unfinished portion of said highway above mentioned, and that the forest service of the department of agriculture and/or the war department and/or the department of the interior of the United States be authorized and directed to begin immediate construction thereon.

BE IT FURTHER RESOLVED, That the secretary of state of the State of Montana be authorized and is hereby directed to immediately forward certified copies of this Memorial to the secretary of agriculture, the secretary of war, the senate and house of representatives of the United States, to senators and representatives in congress from the states of Idaho, Oregon, Washington and Montana, and to the president, Franklin D. Roosevelt.

Filed March 1, 1939.

HOUSE JOINT MEMORIAL NO. 1

A Resolution Memorializing the Congress of the United States for the passage of the Legislation for the Creation and Establishment of the Townsend Recovery Plan, and for Benefits to Be Paid to All Persons Over the Age of Sixty Years.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

WHEREAS, There exists among employers of labor a widespread policy by which persons of over 45 years of age, willing and anxious to earn their livelihood are deprived of the opportunity of receiving employment; thus placing many such persons in a position of depending either upon friends or relatives or on public charity; and,

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WHEREAS, Many of the persons thus deprived of an opportunity to earn their support, are, because of this policy, adopted and enforced by employers of labor, unable to support themselves by means of their own effort; and,

WHEREAS, Our social and economic welfare demands of the American people as a whole, that those, who, through no fault of their own, are thus deprived of the opportunity to earn a livelihood, be placed in a condition where their morale be sustained and they be neither indigents or partakers of public charity; and,

WHEREAS, The burden of creating and maintaining the social and economic welfare is of greater magnitude than the State of Montana in common with other states, is able to carry on; and,

WHEREAS, There exists not only a widespread demand of persons over sixty years of age for the passage of legislation which will permit them to maintain their self-respect, but there also exists an unusually strong demand of persons under the age of sixty years, that those who have pioneered in the building and development of our country be justly and adequately provided for in their declining years,

NOW, THEREFORE, BE IT RESOLVED By the house of representatives of the State of Montana, the senate concurring, that we do hereby petition the congress of the United States of America for the passage of the Townsend recovery plan into law, the said plan being deemed just and equitable to all persons over the age of sixty years.

BE IT FURTHER RESOLVED That a copy of this Memorial be transmitted by the secretary of state of Montana to the senate and house of representatives of the congress of the United States and to the senators and representatives in congress from the State of Montana and they and each of them be requested to use all honorable means within their power to bring about the enactment of the Townsend recovery plan into law.

Approved February 7, 1939.

HOUSE JOINT MEMORIAL NO. 3

A Memorial to the Congress of the United States of America Requesting an Investigation of the Wrongful Destruction, Removal, and Failure to Replace the Fair Ground Buildings of the County of Musselshell, and Thereafter Cause Restitution of the

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Same, Said Buildings Having Been Wrongfully Destroyed and Removed by Authority of the National Parks Service.

To the Honorable Senate and the House of Representatives of the United States in Congress Assembled:

WHEREAS, The national parks service, under the secretary of the interior, having been authorized by the congress of the United States to aid the several states and political subdivisions thereof in planning and developing adequate park, parkway and recreation area facilities for the people of the United States, set up C. C. C. camps in Montana to aid in developing our state parks; and

WHEREAS, In 1935, under and by virtue of said authority, a C. C. C. camp, designated by the national parks service as "Roundup Peaks Camp", was established for the purpose of reconstructing the Musselshell county fairgrounds; and

WHEREAS, Said camp having been set up, the exhibit building, grandstand, and certain other buildings were torn down, and, in spite of and contrary to the definite assurance and promise to the county of Musselshell of new buildings of superior quality, the C. C. C. camp was removed prior to the construction of any buildings whatsoever; and

WHEREAS, All subsequent efforts of the county of Musselshell to secure replacement of said buildings have been of no avail.

NOW, THEREFORE, BE IT RESOLVED That the twenty-sixth legislative assembly of the State of Montana, the senate and house concurring, does hereby respectfully petition and request the congress of the United States to cause a thorough investigation to be made of the destruction, removal, and failure to replace the fair ground buildings of the county of Musselshell and, thereafter, to provide for restitution of said buildings and structures; and

BE IT FURTHER RESOLVED That copies of this Memorial be transmitted by the secretary of state of the State of Montana to the Honorable B. K. Wheeler and the Honorable James E. Murray, United States senators, and to the Honorable James F. O'Connor, United States representative of the second congressional district of the State of Montana.

Approved February 7, 1939.

HOUSE JOINT MEMORIAL NO. 4

A Joint Memorial to the Congress of the United States Requesting the Amendment by That Body of the Social Security Act of

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Congress so as to Provide for the Payment by the Federal Government of One-half the Money Used in Aid of Dependent Children.

To the Honorable Senate and House of Representatives of the United States of America:

WHEREAS, The social security act of congress known as Public No. 271—74th congress, H. R. 7260, approved August 14, 1935, provides in Section 403 (a) for the payment by the secretary of the United States treasury to each state which has an approved plan for aid to dependent children, for each quarter beginning with the quarter commencing with July 1, 1935, an amount which shall be used exclusively for carrying out the state plan equal to one-third (1/3) of the total of the sums expended during such quarter under such plan, and

WHEREAS, By Section 3 (a) of said act, the secretary of the treasury is directed to pay to each state a sum equal to *one-half (1/2)* of the total of the sums expended as old age assistance under the state plan, and

WHEREAS, The volume of necessary work and expenditure in connection with aid to dependent children is equal to or greater than that in the case of old age dependents, and

WHEREAS, The work of caring for dependent children, giving them an opportunity in life of which they have necessarily been deprived by the circumstances which bring them within the purview of the act, and making them useful and independent citizens to take the place of those who have passed their age of activity, is greater than that involved in providing for aged dependents;

NOW, THEREFORE, Be it resolved by the senate and house of representatives of the twenty-sixth legislative assembly of the State of Montana, both houses concurring, that the congress of the United States of America be, and it is hereby respectfully urged to amend Sub-divisions (a) and (b) of said Section 403 of said social security act by changing the words "one-third", wherever the same appears therein, to the words "one-half", and

BE IT FURTHER RESOLVED, That copies of this Memorial be mailed to the president of the United States, to the president of the senate of the United States, to the speaker of the house of representatives of the United States, and to each of the senators and representatives in congress from the State of Montana.

Approved January 30, 1939.

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HOUSE JOINT MEMORIAL NO. 7

A Memorial to the Congress of the United States of America Requesting It to Assist the Beet Sugar Industry in Montana.

WHEREAS, Only 29.5% of domestic sugar sales are allotted to domestic producers at present. Cuba has practically the same amount and our insular possessions 41.5%. American producers are rightfully entitled to all of the domestic market that they are able to supply; and,

WHEREAS, The import quotas of raw sugar as set at the present time have brought the farmers, the workers in the beet sugar factories, and the laborers in the beet fields in direct competition with the poorly paid labor in the sugar producing territories outside of continental United States; such competition has the direct result of lowering the standard of living of these farmers and laborers to a level incompatible with the American way of life; and,

WHEREAS, Sugar beets can be effectively grown at a reasonable profit in this State and there is no food more valuable to the consumer in nutritive worth even at a much higher price than at present; and,

WHEREAS, The production of sugar beets provides employment at good wages for many times as many workers as the same acreage of other crops adapted to this latitude and any control of the expansion of sugar beet acreage means more unemployment and more relief clients who could otherwise make a living in this industry; and,

WHEREAS, There is grave danger that the present policy, if continued, will result in many now employed in this country losing their means of livelihood, thereby further increasing the already tremendous burden of unemployment; and,

WHEREAS, Our beet growers, if permitted to make a reasonable amount of money are, due to their higher standard of living, many times better customers for eastern industry as are foreign sugar laborers and planters; and,

WHEREAS, An orderly and sound expansion of beet plantings in accordance with the development of suitable land and the building of new factories to take care of the increased production is a reasonable and necessary process to the building up of this State and should be encouraged; and,

WHEREAS, The expansion of the domestic production of sugar should be encouraged as a problem of national economy and defense;

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the acute shortage of sugar during the world war demonstrated our need for a much higher domestic sugar production in time of emergency; and,

WHEREAS, Because of the high altitude of this region, there are practically no substitute crops for sugar beets and the restriction of the beet industry means the throttling of our agriculture by eliminating the best cultivated crop in a proper rotation for maintaining soil fertility and weed control; and,

WHEREAS, The development of profitable agricultural operations is so vital to the business of all of Montana as well as of the entire United States, and should be given most serious consideration by all individuals and law-making bodies; and,

WHEREAS, The beet growers' associations of Montana, supported by the Montana Federation of Labor and Montanans, Incorporated, (the state chamber of commerce) have given serious and careful consideration to the present sugar quotas and the above facts have been definitely established; now, therefore,

BE IT RESOLVED, That it is the prayer of your memorialists, the twenty-sixth legislative assembly of the State of Montana, that the congress of the United States should, by proper legislation, right the wrong suffered by the farmers, processors, and wage-earners engaged in the growing and manufacturing of beet sugar, by immediately raising the domestic sugar quota to permit the unrestricted production of sugar within the continental limits of the United States, and to maintain the protective market by quota reductions and adequate tariffs on foreign sugar.

BE IT FURTHER RESOLVED, That a copy of this Memorial, duly authenticated, be sent by the secretary of state to the senate and house of representatives of the United States and to each of the senators and representatives of Montana in congress.

Approved February 9, 1939.

HOUSE JOINT MEMORIAL NO. 8

A Resolution Memorializing the Congress of the United States to Enact Legislation to Facilitate the Transportation of Products of Montana and Adjacent States by Construction of Dams and Other Facilities to Make Navigable the Missouri River From Its Mouth to Fort Benton, Montana.

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To the Honorable Senate and House of Representatives of the United States of America in Congress Assembled:

WHEREAS, The United States army engineers are engaged in the construction of a dam across the Missouri river at Fort Peck, Montana, for the purpose of controlling the waters of the said Missouri river below the site of the dam in aid of navigation of said river from its mouth to the location of the dam, and

WHEREAS, The said United States army engineers are engaged in river and channel improvement work from Sioux City, Iowa, to the mouth of the Missouri river above St. Louis, Missouri, and

WHEREAS, It appears that the said United States army engineers have surveyed and located sites for dams to make completely navigable the Missouri river into the State of Montana, and

WHEREAS, The establishment of a water route for Montana products to markets on the inland waterways of the United States would result in greatly lowered rates for the transportation thereof, and would result in immeasurable benefit to Montana producers and producers of adjacent states;

NOW, THEREFORE, BE IT RESOLVED, By the house of representatives of the State of Montana, the senate concurring, that the congress of the United States be, and it is hereby requested and resolved to enact legislation providing for the progressive construction and completion of the dams necessary, together with adequate ship locks and/or ship elevators in each dam, and together with ship locks and/or ship elevators in the Fort Pack dam, to make navigable the Missouri river from its mouth to Fort Benton, Montana, providing a water route of nine-foot channel depth for the transportation of products of Montana and adjacent states, and

BE IT FURTHER RESOLVED, That the secretary of state of the State of Montana, be directed to send a copy of this resolution to each of the senators and representatives of the State of Montana in congress.

Approved March 11, 1939.

HOUSE JOINT MEMORIAL NO. 10

A Memorial to the Congress of the United States Requesting the Enactment of Legislation to Bring About Control of Basic Metals, to Create a Control Board and Suggesting the Powers of Said Board.

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To the Honorable Senate and the House of Representatives of the United States in Congress Assembled:

WHEREAS, The sudden fluctuations in the ratio of supply to demand with resultant instability in the price of basic metals causes workers engaged in the production of the basic metals involved alternately to be employed and laid off at intervals uncertain both as to time of inception and duration, periods respectively characterized by hope of overcoming insolvency and fear of garnishment of wages, and by again being pushed on to the relief rolls into hardship and discouraging indebtedness, (basic metals as used in this resolution shall include, but not be limited to copper, manganese, lead, zinc, silver, arsenic, gold, bismuth, iron and molybdenum in any form, such as, but not limited to, ore, concentrate, matte, cinders, blistered or refined);

WHEREAS, The consequent uncertainty of employment has caused and is causing a feeling of unrest and insecurity among said workers; and

WHEREAS, National regulation of the production and importation of basic metals would tend to equalize the discrepancies between the supply and demand of said metals and to remedy in a greater or lesser degree the evils above described;

NOW, THEREFORE, BE IT RESOLVED, That the twenty-sixth legislative assembly of the State of Montana, the senate and house concurring, hereby does petition the congress of the United States to enact legislation creating a basic metals control board consisting of five (5) members; one to be appointed from the membership of the Mine, Mill and Smelter Workers, one from the metal trades of the American Federation of Labor, one from the independent fabricators, one from the major mine owners and one disinterested person to be chairman, said board to have power:

1. To regulate the production in the United States of all basic metals;

2. To prohibit importation of foreign basic metals when and as long as there are any domestic basic metals on hand;

3. To compel mining, metal producing and ore refining plants to continue in operation when and if said board can prove that continuing operation will return a reasonable profit to the plant in question;

4. To prevent interlinking of mining, metal producing and ore refining companies or trusts detrimental to any or all of the workers employed in industries producing basic metals;

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5. To recommend to congress tariff rates to be imposed upon basic metals imported to the United States.

BE IT FURTHER RESOLVED, That copies of this Memorial be transmitted by the secretary of state of the State of Montana to the Honorable Franklin D. Roosevelt, president of the United States, the Honorable B. K. Wheeler and the Honorable James E. Murray, United States senators, and to the Honorable James F. O'Connor and the Honorable J. Thorkelson, United States representatives of the State of Montana.

Approved March 11, 1939.

HOUSE JOINT MEMORIAL NO. 11

A Memorial Requesting Congress of the United States to Pass a Bill Granting Certain Public Lands to the State of Montana for the Use and Benefit of the Northern Montana Agricultural and Manual Training School Also Designated as the Northern Montana College.

To the Honorable Senate and the House of Representatives of the United States in Congress Assembled:

WHEREAS, The Honorable Burton K. Wheeler, United States senator from Montana, introduced in the senate of the United States on January 4, 1939, a bill granting certain public lands to the State of Montana for the use and benefit of the Northern Montana Agricultural and Manual Training School, designated as "S. 30", purporting to grant to the State of Montana five hundred thousand (500,000) acres of land for the use and benefit of said Northern Montana Agricultural and Manual Training School, also designated as Northern Montana College;

WHEREAS, The federal government previously has granted lands to aid in the establishment, support and maintenance of all of the units of the Greater University of Montana except said Northern Montana College;

WHEREAS, Said land grants have been and are of great assistance to the said institutions benefiting thereby in furthering the progress of higher education in the State of Montana; and,

WHEREAS, The Northern Montana College is in need of such aid and will be able to offer greater advantages, particularly to the youth of Northern Montana if such grant were made;

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NOW, THEREFORE, BE IT RESOLVED, That the twenty-sixth legislative assembly of the State of Montana, the senate and house concurring, hereby does request and petition the congress of the United States to pass said bill introduced by the Honorable Burton K. Wheeler entitled: "A bill granting certain public lands to the State of Montana for the use and benefit of the Northern Montana Agricultural and Manual Training School", designated as "S. 30"; and,

BE IT FURTHER RESOLVED, That copies of this Memorial be transmitted by the secretary of state of the State of Montana to the senate and house of representatives of the congress of the United States and to the senators and representatives in congress from the State of Montana, and that they and each of them be and hereby are requested to use all means within their powers to bring about the passage of said bill.

Approved February 20, 1939.

HOUSE JOINT MEMORIAL NO. 13

A Memorial to the Congress of the United States Requesting the Enactment of Appropriate Legislation to Protect the Citizens of the State of Montana Against the Importation of Natural Gas From the Dominion of Canada.

To the Honorable Senate and House of Representatives of the United States of America in Congress Assembled:

WHEREAS, There has been developed in the State of Montana large quantities of natural gas, sufficient in amount to supply the present industrial and domestic demands of the State, and

WHEREAS, There are in the State of Montana numerous geological structures from which great quantities of natural gas will be produced when properly developed and when commercial and domestic consumption require, and

WHEREAS, There has been imported into the State of Montana from the Dominion of Canada approximately one billion two hundred and fifty million (1,250,000,000) cubic feet of natural gas to date free from any duty, and

WHEREAS, The free and unrestricted importation of such natural gas has not only been a drainage of the Montana gas fields but imposes a hardship upon the State of Montana and those persons

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and corporations engaged in the development of the natural resources of the State and is retarding and delaying the development of potential oil and gas fields in the State, and

WHEREAS, The Canadian government imposes a duty of approximately six cents (6c) per thousand (1,000) cubic feet upon natural gas imported into that country, and such duty closes the door to the producers of natural gas in Montana;

THEREFORE, BE IT RESOLVED, By the senate and house of representatives of the State of Montana, that the congress of the United States be respectfully urged and petitioned to enact legislation prohibiting the importation of natural gas from Canada without the payment of a duty of equal amount required to be paid for the importation of natural gas into Canada, and

BE IT FURTHER RESOLVED, That copies of this Memorial be mailed to the president of the United States, to the president of the senate, to the speaker of the house of representatives, and to each member in congress from Montana.

Approved March 11, 1939.

HOUSE JOINT MEMORIAL NO. 14

A Memorial to the Congress of the United States Urging Amendments to Existing Laws Pertaining to Agriculture Affecting Wheat Production in Montana; Requesting Quotas in Wheat Production Be Changed From an Acreage Basis to a Bushel Basis; Urging Provision of Means for Raising Revenue for the Purpose of Insuring a Parity Price for Wheat Produced.

WHEREAS, A great majority of those engaged in the agricultural industry in the State of Montana produce wheat of a grade produced in only small areas of the wheat producing sections of the United States, and

WHEREAS, Hard, high protein content wheat can usually only be produced under dry farming conditions, with their attendant hazards of crop failures from drought and insect ravages, and

WHEREAS, The Montana wheat farmer cannot be limited by a quota on an acreage basis if he is to continue to produce wheat for society as he must increase his acreage in years favorable to production to offset his failure to produce in unfavorable seasons, and production control on a bushel basis would more nearly equalize and stabilize production, and

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WHEREAS, It is manifestly impossible for the Montana wheat farmer to produce this necessity for society unless he is assured of a price for his product in parity with the prices paid by society to the producer of any other necessity or implement of life, and

WHEREAS, The farmer as a productive unit of society exercises little or no control over his product in the way of the price which it shall bring in the market and it has been found necessary to provide forms of benefit payments to him to make it possible for him to, in some degree meet the costs of production and make it possible for him to continue to produce for society, and

WHEREAS, The wheat farmer of Montana, realizes that only by providing for the raising of revenue through the trade in his commodity, rather than depending on the changing temper of legislative bodies, can the assurance of funds needed for the stabilizing the price for the commodity he produces, on a parity with the market for other products, be attained;

NOW THEREFORE, BE IT RESOLVED By the house of representatives of the State of Montana, the senate of the State of Montana concurring, that we petition and pray the congress of the United States for the enactment of the following amendments to existing laws pertaining to agriculture:

1. That production control be on a bushel instead of acreage basis.

2. That loan values and benefit payments on the wheat absorbed by domestic consumption be fixed at a figure which will compel a fair exchange price, for that wheat and bring about an honest and actual parity price.

3. That congress through taxation in the trade in wheat, provide revenue for assurance of a stable fund with which to meet such contingencies as may arise in insuring a parity price for wheat.

BE IT FURTHER RESOLVED, That a copy of this Memorial, duly authenticated, be sent by the secretary of the state to the secretary of agriculture, the senate and house of representatives of the United States, and to each of the senators and representatives of Montana in congress.

Approved March 11, 1939.

HOUSE JOINT MEMORIAL NO. 16

A Memorial to the Congress of the United States Requesting an Investigation of Certain Homesteads on Indian Lands in Valley,

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Daniels, Roosevelt and Sheridan Counties in Regard to Settlement Thereof, Money Paid Therefor to the United States Government, Abandonment of Such Homesteads and Thereafter the Enactment of Legislation for Refunding to Such Settlers or Their Heirs Who Were Compelled to Abandon Said Land, of the Amount Paid Therefor.

To the Honorable Senate and the House of Representatives of the United States in Congress Assembled:

WHEREAS, Certain Indian lands in the counties of Valley, Daniels, Roosevelt and Sheridan were opened for settlement under the homestead laws of the United States prior to the year 1920, and

WHEREAS, Many bona fide settlers filed on said lands, completed requirements for and obtained patents to parcels thereof, paying therefor to the federal government from two dollars and fifty cents ($2.50) to seven dollars and fifty cents ($7.50) per acre, and

WHEREAS, Said lands being worthless for farming purposes, said patent holders, their successors or heirs were forced either to abandon said lands, to have said lands sold for delinquent taxes or to sell said lands to the federal government under the resettlement program at fifty cents ($0.50) per acre, and

WHEREAS, Said lands were inadvertently, and wrongfully opened for settlement under said homestead laws,

NOW, THEREFORE, BE IT RESOLVED, That the twenty-sixth legislative assembly of the State of Montana, the house of representatives and the senate concurring, hereby does petition and memorialize the congress of the United States, that an investigation be made of the inadvertent and wrongful opening of said Indian lands in the counties of Valley, Daniels, Roosevelt and Sheridan, State of Montana, the amount of money paid therefor by settlers in procuring patents, and abandonment, sale for taxes or sale to the resettlement administration and that thereafter legislation be enacted to refund to such settlers or their heirs the amounts paid for such lands.

BE IT FURTHER RESOLVED That a copy of this Memorial be transmitted by the secretary of state of the State of Montana, to the senate and house of representatives of the congress of the United States, and to the senators and representatives in congress from the State of Montana, and that our senators and representatives be urged to use all honorable means within their power to bring about the enactment of such legislation.

Approved February 24, 1939.

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HOUSE JOINT MEMORIAL NO. 17

A Resolution Memorializing the Congress of the United States; Requesting Legislation Amending the Social Security Act to Include Sufferers From Occupational Diseases and to Match State Appropriations by Federal Aid.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

WHEREAS, The commission authorized by the twenty-fifth legislative assembly of the State of Montana to study occupational diseases, particularly silicosis, has reported to the twenty-sixth legislative assembly of the State of Montana, its finding that silicosis is a disease of slow and continuous development which takes from five to twenty years to develop, and therefore it is almost impossible to prove when the disease began, whether in the state and industry where the disease reached its final stages or in some other state or industry, and

WHEREAS, Upon all information available, science has not yet discovered a cure for silicosis and is still experimenting with the cure of said disease, and

WHEREAS, The protection of workmen's compensation laws, except in a very few instances, does not include occupational diseases arising out of conditions of employment, and

WHEREAS, The recent extension of such compensation laws in a few states to include employees who might become afflicted with silicosis and other occupational diseases immediately resulted in the removal of large industries to neighboring state or states where employees are totally unprotected by such laws, except in the event of physical accident, and

WHEREAS, The recent extension of such compensation laws to include such diseases further resulted in afflicted employees being thrown out of employment by the ruthless methods practiced by insurers requiring employees to pass rigid physical examination as a condition of employment, and

WHEREAS, Those who are afflicted with silicosis and in the late stages of the disease are incapacitated and unable to secure employment and are therefore without means of subsistence and without means to check the disease, and

WHEREAS, States which recognize their responsibility to society and to employees by affording humanitarian standards and honest

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compensation for employees in hazardous occupations should be given federal assistance in order that employers within such states who do fulfill their obligation to society and to their employees shall not be penalized by migration of unconscionable competitors to other states which fail to afford decent standards of compensation to employees afflicted with occupational diseases, and in order that persons who contract said disease through no fault of their own should not suffer illness, want and privation;

NOW, THEREFORE, BE IT RESOLVED That the congress of the United States be requested to pass an act to amend the social security act to include sufferers from occupational diseases and to match by federal aid the appropriations of states which include in their public welfare acts assistance to persons who are afflicted with silicosis and other occupational diseases, and

BE IT FURTHER RESOLVED That copies of this Memorial be sent by the secretary of state of the State of Montana to the president of the United States, to the president of the senate and the speaker of the house of representatives of the congress of the United States, to Senator Robert Wagner and to each of the senators and representatives in congress from the State of Montana.

Approved March 3, 1939.

HOUSE JOINT MEMORIAL NO. 18

A Memorial to the Congress of the United States of America Requesting the Passage of House Resolution No. 3320 and Senate Bill No. 572 Both of Which Bills Are Identical in Form, and Are for the Purpose of Providing for the Common Defense by Acquiring Stocks of Strategic and Critical Raw Materials, Concentrates and Alloys Essential to the Needs of Industry for the Manufacture of Supplies for the Armed Forces and the Civilian Population in Time of National Emergency, and for Other Purposes.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

WHEREAS, There is now pending before the house of representatives of the congress of the United States, House Resolution No. 3320 and there is now pending before the senate of the congress of the United States, Senate Bill No. 572 which have for their purpose the purchase of strategic and critical raw materials, concentrates, minerals, and alloys essential to the national safety and

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for which there is at present an inadequate supply in the United States, and for the purpose of developing domestic deposits of strategic war minerals, and materials necessary for industry, and

WHEREAS, Extensive deposits of manganese, chromium and other strategic war minerals exist within the State of Montana, and remain in a comparatively undeveloped condition, and

WHEREAS, It is the opinion of the legislative body of the State of Montana, the passage of these bills, or bills having similar object in view, are essential to the national safety of the United States government and should be enacted into law by the congress of the United States,

NOW, THEREFORE, BE IT RESOLVED That the twenty-sixth legislative assembly of the State of Montana, the senate and house concurring, does hereby respectfully petition and request the congress of the United States to enact into law House Resolution No. 3320 and Senate Bill No. 572 or such other legislation now pending before the congress of the United States of a like character,

BE IT FURTHER RESOLVED, That copies of this Memorial be transmitted by the secretary of state of the State of Montana, to the Honorable B. K. Wheeler, and the Honorable James E. Murray, United States senators, and to the Honorable James F. O'Connor, and the Honorable T. J. Thorkelson, United States representatives from the first and second congressional districts of the State of Montana, respectively.

Approved March 11, 1939.

HOUSE JOINT RESOLUTION NO. 2

A Joint Resolution Declaring an Emergency to Exist Up to and Including January 28th, 1939, and Providing for the Compensation and Employment of Additional Help in Addition to the Employees Enumerated in Chapter 44 of the Session Laws of the Twenty-fifth (1937) Legislative Assembly for the House of Representatives During the Twenty-sixth Legislative Assembly of the State of Montana Pursuant to the Authority Granted by Section 77 of the Revised Codes of Montana, 1935, and Providing That Such Additional Employment and Said Emergency Shall Cease Not Later Than January 28th, 1939.

Be It Resolved by the House of Representatives of the 26th Legislative Assembly of the State of Montana, the Senate Concurring:

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WHEREAS, The need for skilled help in the house of representatives has created an emergency, which will terminate not later than January 28th, 1939, and,

WHEREAS, The consideration of relief measures, tax legislation, extensive departmental reorganization measures, along with other legislative problems have created an extraordinary condition rendering it necessary, for the orderly and expeditious conduct of the business of the house of representatives to employ employees in addition to those authorized and enumerated by Chapter 44 of the Session Laws of the twenty-fifth (1937) legislative assembly of the State of Montana, up to and including January 28th, 1939.

NOW, THEREFORE, BE IT RESOLVED, By the house of representatives of the twenty-sixth legislative assembly of the State of Montana, the senate concurring, that by virtue of Section 77, Revised Codes of Montana, 1935, the employment committee of the house of representatives be authorized to employ thirty-five (35) additional stenographers, typists, clerks, and legislative attaches, up to and including January 28th, 1939.

Provided that from and after January 29th, 1939, the house of representatives shall not employ in excess of the number of employees allowed or permitted by law, and

BE IT FURTHER RESOLVED, That compensation for the additional employees shall be paid up to and including January 28th, 1939, only as provided by Section 76 of the Revised Codes of Montana, 1935, as amended by Chapter 44 of the twenty-fifth (1937) legislative assembly of the State of Montana.

Approved February 6, 1939.

HOUSE JOINT RESOLUTION NO. 3

A Resolution Encouraging a More Extensive Use of Copper.

Be It Resolved by the House of Representatives of the State of Montana, the Senate Concurring:

WHEREAS, All copper consumed in this country is mined, refined and fabricated into wire and cable in the United States at a cost of two hundred twenty-two and 74/100 ($222.74) dollars per ton, ninety-six and 50/100 ($96.50) dollars paid directly in wages, seventy-nine and 57/100 ($79.57) dollars in supplies purchased from other industries, eight and 29/100 ($8.29) dollars in federal taxes,

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ten and 39/100 ($10.39) dollars in state and local taxes, twenty-seven and 99/100 ($27.99) dollars in freight to railroads (estimated forty-four (44%) per cent of railroad income goes to labor); and

WHEREAS, The consumption of copper declined in the first quarter of 1938 against the first quarter of 1937, fifty-six thousand eight (56008) tons, a loss to labor of one million six hundred sixty-three thousand, four hundred thirty-eight (1,663,438) man days; and

WHEREAS, Aluminum has entered the field as a competitor of copper as a conductor of electricity on projects being executed by the TVA, REA, etc., aluminum being manufactured from bauxite ores of which fifty-four and eight-tenths (54.8%) per cent in the year 1937, was imported from British Guiana and Surinam, countries in which coolie labor is employed at a few cents a day in their mines, thus causing an exploitation of cheap labor and a displacing of American workmen in the bauxite fields of Arkansas and Tennessee, to say nothing of the unfair competition with the American copper miner; and

WHEREAS, Low bids on TVA and REA projects have invariably included the use of aluminum because of its lower price due to the fact that it can be imported and fabricated into a finished conductor more cheaply than copper as a raw material can be produced in this country based on our higher standard of living; and

WHEREAS, From a true American standpoint and from what we believe is the real intent of the REA to use American material and labor; now

THEREFORE, BE IT RESOLVED, By the house of representatives of the State of Montana, the senate concurring, that domestic labor and industry should be receiving from the projects carried on by the TVA, REA, etc., a larger proportion of the benefits to be derived from these projects, and that said benefits will be derived by a more extensive use of copper as a conductor, and that, in all calls for bids wherein in executing the proposed contract, either copper or aluminum might be used, the use of copper exclusively be one of the specifications thereof.

Approved February 14, 1939.

HOUSE JOINT RESOLUTION NO. 5

A House Joint Resolution Accepting the Designation of July 19, 1939, as "Montana Day" in the Calendar of Special Events of the

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New York World's Fair of 1939, Providing for Proper Observance Thereof, Prescribing the Duties of the 1939 Anniversary Commission in Connection Therewith, and Urging the Participation of Certain Organizations and of the Citizens of the State of Montana Therein.

WHEREAS, Subject to the acceptions by the legislative assembly of the State of Montana, Wednesday, July 19, 1939, has been designated as "Montana day" in the calendar of special events of the New York World's Fair of 1939; and

WHEREAS, Participation in said special events affords the State of Montana, its people, institutions, and organizations to bring before those attending said New York World's Fair, the extent and nature of products derived from our natural resources and manufacturing industries, and to advertise by means of pictures and models, the scenic beauty and vacation facilities, as well as the colorful history of the State of Montana, the latter being of special significance in that the year 1939 was memorialized in House Joint Resolution No. 3, Laws of Montana, 1937, as Montana's Year of Anniversaries, said anniversaries being:

"The Semi-sesqui-centennial-75th-anniversary of the creation of the Territory of Montana by act of congress, approved May 26th, 1864, by President Abraham Lincoln;

"The Semi-centennial-50th-anniversary of the creation of Montana as a state and its admission into the union in this sequence of events: The approval of the enabling act on February 22, 1889, by President Grover Cleveland, the assembling of the constitutional convention at Helena on July 4, 1889, the adoption of the Constitution by the people at the election of October 1, 1889, and the proclamation declaring Montana a state, promulgated by President Benjamin Harrison on November 8, 1889; and, the year 1939 will also mark the anniversaries of historical events antecedent to such fundamental political acts, all of which marked the rough road to national recognition and state sovereignty, particularly

"The 110th anniversary of the building of Fort Union by Kenneth McKenzie at the mouth of the Yellowstone river in 1829, being the first permanent trading post of the fur traders in Montana.

"The 100th anniversary of the journey in 1839 of the Flathead Indian party to St. Louis to obtain 'the white man's book'—the Holy Bible, which inspired action in the dispatch of missionaries to the Indians of Montana; and later brought to all humans in the great wilderness, the blessed ministrations of the 'black robes', the heroic Jesuits.

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"The 90th anniversary of the creation of Oregon Territory in 1849, wherein was included that portion of Montana west of the Rocky mountains, thereby finally uniting all of the territory now within the boundaries of Montana under the American flag.

"The 80th anniversary of the beginning of the steamboat era on the Missouri river, marked by the arrival of the steamboat Chipewa at Fort Brule, a few miles below Fort Benton on July 1, 1859";

NOW, THEREFORE, BE IT RESOLVED, By the house of representatives of the twenty-sixth legislative assembly of the State of Montana, the house and senate concurring, that the designation of July 19, 1939, as "Montana day" in the calendar of special events of the New York World's Fair of 1939, be, and the same is hereby accepted, and that the governor be, and he hereby is requested to issue on or before the first day of May, 1939, a formal proclamation of such designation, and that he therewith promulgate to the people of Montana an address relative to the observance of said day, among other things, urging all organizations, industries and the people therein, to participate in the program of said Montana day.

That the 1939 anniversaries commission be, and hereby is authorized to plan and effectuate a program for said Montana day and in executing said plans to enlist the cooperation of all civic, patriotic and service organizations, and historical societies, and to receive from such organizations and citizens of the state generally, any suggestions or recommendations which may be submitted to it, and to take such steps as may be necessary in the coordination and correlation of plans, suggested and prepared throughout the State.

BE IT FURTHER RESOLVED That a copy of this resolution be transmitted by the secretary of state of the State of Montana to the special events department of the New York World's Fair.

Approved March 11, 1939.

SENATE JOINT MEMORIAL NO. 1

A Resolution Memorializing the Congress of the United States for the Passage of Legislation Prohibiting the Importation of Foreign Manufactured United States Flags and Other National Insignia Sufficiently to Protect Their Manufacture in the United States.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

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"WHEREAS, The United States flags and other national insignia are being manufactured and imported from foreign countries;

AND WHEREAS, This practice is detrimental to our manufacturers of these flags and national insignia and contrary to the theory of our national Americanism;

NOW THEREFORE, Be it resolved by the senate of the State of Montana, the house of representatives concurring, that we do hereby petition the congress of the United States of America for the passage of legislation prohibiting the importation of foreign manufactured United States flags and other national insignia."

BE IT FURTHER RESOLVED, That a copy of this Memorial be transmitted by the secretary of the State of Montana to the senate and house of representatives of the congress of the United States and to the senators and representatives in congress from the State of Montana and that they and each of them be requested to use all honorable means within their power to bring about such legislation.

Approved January 25, 1939.

SENATE JOINT MEMORIAL NO. 2

A Memorial to the Congress of the United States for the Passage of an Act Incorporating the Principles of the Townsend National Recovery Plan Substantially as Set Forth in a Bill Entitled H. R. 4199, Introduced into the House of Representatives in the First Session of the 75th Congress of the United States on February 2, 1937.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled in the 76th Session:

WHEREAS, The problems of unemployment and social security are two of the most vital economic issues now confronting the people of the State of Montana, as well as all other States of the Union, and

WHEREAS, The United States government has incurred an enormous debt in providing a bare subsistence for several million unemployed persons, and

WHEREAS, It will be impossible to continue such relief appropriations indefinitely without serious injury to the credit of the Nation, and

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WHEREAS, The economic problems of unemployment and social security cannot be properly handled by individual states, but are national problems involving the general welfare of the whole nation, and

WHEREAS, The Townsend National Recovery Plan, as set forth in the General Welfare Act of 1937 (H. R. 4199) introduced in the last session of congress, provided for the collection of a 2% tax on business transactions and the pro rata monthly distribution of the proceeds to persons over 60 years of age who agree to retire from gainful employment and expend their monthly allotments for the products of American capital and labor, and

WHEREAS, It is the purpose of such plan

1. To retire from active employment some four or five million persons over 60 years of age, and provide jobs for several million persons under 60 years of age.

2. To decrease, if not eliminate, expenditures for relief.

3. To eliminate the necessity of hoarding to provide for needs incident to advancing age.

4. To stimulate trade and industry by increasing the purchasing power of persons of advanced years.

5. To relieve the present stagnation of money and credits by providing a market for products of American capital and labor.

NOW THEREFORE BE IT RESOLVED By the senate of the State of Montana, the house concurring, that we do hereby petition the congress of the United States of America for the enactment of the Townsend National Recovery Plan into law, the said plan being deemed just and equitable to all persons in the United States.

BE IT FURTHER RESOLVED That a copy of this Memorial be transmitted by the secretary of state of Montana to the president of the United States, to the senate and house of representatives of the congress of the United States, and to the senators and representatives in congress from the State of Montana, and they and each of them be requested to use all honorable means within their power to bring about the enactment of the Townsend Recovery Plan into law at the earliest possible time.

Approved February 13, 1939.

SENATE JOINT MEMORIAL NO. 4

A Memorial to Continue the Development of the Buffalo Rapids Project for the Purpose of Irrigating Lands with Water Diverted

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from the Yellowstone River in the Counties of Dawson, Prairie and Custer, and Further Providing the Stabilization of Farming and Stockgrowing Industry.

A Memorial to the President of the United States, to the President of the Senate and Speaker of the House of Representatives in the Congress of the United States, to the Honorable Secretary of the Interior, to the Administrator of the Works Progress Administration, and to each member in Congress from Montana.

We, the members of the twenty-sixth legislative assembly of the State of Montana, the senate and house concurring, respectfully represent:

WHEREAS, The twenty-fourth legislative assembly of the State of Montana approved and passed Senate Joint Memorial No. 4 setting forth the necessity and rehabilitation value of the completion of the Buffalo Rapids Project along the Yellowstone River in Custer, Prairie, and Dawson counties in Montana and the purpose of said Memorial was again set forth and expressed in Senate Joint Memorial No. 3 passed by the twenty-fifth legislative assembly in 1937; and

WHEREAS, Construction of Unit No. 1 at the lower end of said project, with the aid of W. P. A. labor, has been approved and construction of the same is now progressing; and

WHEREAS, The importance of the entire Buffalo Rapids Project has in the last two years been more clearly emphasized through the need in Eastern Montana for diverting the water from the Yellowstone River to supplement the lack of sufficient moisture, in addition to all of the other reasons urged in said Joint Memorial; and

WHEREAS, Said Unit No. 1 will irrigate about one-fifth of the area included in said Buffalo Rapids Project and will only partially accomplish the ends desired in said Memorials; and

WHEREAS, The allotment of W. P. A. labor for the construction of Unit No. 1 has resulted in a most commendable employment of relief labor in Eastern Montana and is constructing a worth-while project of lasting benefit and providing for the permanent rehabilitation of the people in that area; and

WHEREAS, Your memorialists continue to recognize that this project is one of the most important in Montana, will have a far reaching effect, and will greatly add to the material worth and value of Montana as a whole, and to Eastern Montana in particular, and will insure its stockmen and farmers within its territory with

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permanent feed and means of existence against drouth. We further recognize that the completion of the other units of said Buffalo Rapids will greatly enhance the re-population of its adjoining ranges and will contribute to the permanent relief and rehabilitation of this section of the State of Montana;

NOW, THEREFORE, BE IT RESOLVED: That the legislative assembly of the State of Montana, the senate and house concurring, does hereby respectfully petition and request that the additional units of the Buffalo Rapids Project in Montana be approved and constructed at the earliest possible moment and the necessary appropriations for construction of the same be provided; and

BE IT FURTHER RESOLVED, That copies of this Memorial be mailed to the president of the United States, to the president of the senate and speaker of the house of representatives in the congress of the United States, to the honorable secretary of the interior, to the administrator of the works progress administration, and to each member in congress from Montana.

Approved February 7, 1939.

SENATE JOINT MEMORIAL NO. 5

A Memorial to the Congress of the United States of America Requesting It to Assist the Beet Sugar Industry in Montana.

WHEREAS, Only 29.5% of domestic sugar sales are allotted to domestic producers at present. Cuba has practically the same amount and our insular possessions 41.5%. American producers are rightfully entitled to all of the domestic market that they are able to supply; and

WHEREAS, The import quotas of raw sugar as set at the present time have brought the farmers, the workers in the beet sugar factories, and the laborers in the beet fields in direct competition with the poorly paid labor in the sugar producing territories outside of continental United States; such competition has the direct result of lowering the standard of living of these farmers and laborers to a level incompatible with the American way of life; and

WHEREAS, Sugar beets can be effectively grown at a reasonable profit in this State and there is no food more valuable to the consumer in nutritive worth even at a much higher price than at present; and

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WHEREAS, The production of sugar beets provides employment at good wages for many times as many workers as the same acreage of other crops adapted to this latitude and any control of the expansion of sugar beet acreage means more unemployment and more relief clients who could otherwise make a living in this industry; and

WHEREAS, There is grave danger that the present policy, if continued, will result in many now employed in this country losing their means of livelihood, thereby further increasing the already tremendous burden of unemployment; and

WHEREAS, Our beet growers, if permitted to make a reasonable amount of money are, due to their higher standard of living, many times better customers for eastern industry as are foreign sugar laborers and planters; and

WHEREAS, An orderly and sound expansion of beet plantings in accordance with the development of suitable land and the building of new factories to take care of the increased production is a reasonable and necessary process to the building up of this State and should be encouraged; and

WHEREAS, The expansion of the domestic production of sugar should be encouraged as a problem of national economy and defense; the acute shortage of sugar during the World War demonstrated our need for a much higher domestic sugar production in time of emergency; and

WHEREAS, Because of the high altitude of this region, there are practically no substitute crops for sugar beets and the restriction of the beet industry means the throttling of our agriculture by eliminating the best cultivated crop in a proper rotation for maintaining soil fertility and weed control; and

WHEREAS, The development of profitable agricultural operations is so vital to the business of all of Montana as well as of the entire United States, and should be given most serious consideration by all individuals and law-making bodies; and

WHEREAS, The beet growers' associations of Montana, supported by the Montana federation of labor and Montanans, incorporated, (the state chamber of commerce) have given serious and careful consideration to the present sugar quotas and the above facts have been definitely established; now therefore,

BE IT RESOLVED, That it is the prayer of your memorialists, the twenty-sixth legislative assembly of the State of Montana, that the congress of the United States should, by proper legislation,

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right the wrong suffered by the farmers, processors, and wage-earners engaged in the growing and manufacturing of beet sugar, by immediately raising the domestic sugar quota to permit the unrestricted production of sugar within the continental limits of the United States, and to maintain the protective market by quota reductions and adequate tariffs on foreign sugar.

BE IT FURTHER RESOLVED, That a copy of this Memorial duly authenticated, be sent by the secretary of state to the senate and house of representatives of the United States and to each of the senators and representatives of Montana in congress.

R. S. Nutt	Henderson
Keeley	Arnold
Angvick	Dahl
Mann	Plumer
Kathan (Pondera)	Davis
Ruffcorn	Kroman
Harlen	Bateman
Burke	

Approved February 15, 1939.

SENATE JOINT MEMORIAL NO. 6

A Resolution Memorializing the Congress of the United States; Indorsing the Passage and Approval of Senate Joint Resolution Number 20 Introduced in the Senate of the United States on January 4, 1939, by the Honorable Burton K. Wheeler, United States Senator; Providing for the Cancellation of Certain Crop Production and Harvesting Loans Heretofore Made by the United States Government and for Other Purposes.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

Your memorialists, the members of the twenty-sixth legislative assembly of the State of Montana, the senate and house concurring, respectfully represent as follows: that

WHEREAS, There is before the seventy-sixth congress, first session, a Senate Joint Resolution No. 20, providing for the cancellation of certain crop production and harvesting loans heretofore made by the United States government and for other purposes; that

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WHEREAS, There exists throughout the State of Montana and other states of the union, a grave agricultural situation, due to several years of drouth, hail, rust, grasshopper and cricket infestations and the present low prices in agricultural products; and

WHEREAS, These conditions make it impossible for many farmers and ranchers to ever repay their feed and seed loans;

NOW, THEREFORE, BE IT RESOLVED: That hereafter, no claim shall be made by the United States against any persons for the debt created by the furnishing of feed and seed, as hereinafter provided:

That the governor of the farm credit administration be authorized and directed to provide for the immediate cancellation of all loans which have been made to farmers in drought-stricken areas in the United States pursuant to the Act of January 29, 1937, (Public Law Numbered 2, Seventy-fifth Congress), or the joint resolution of February 4, 1938, (Public Resolution Numbered 78, Seventy-fifth Congress), or pursuant to any other Act or joint resolution approved subsequent to March 2, 1921, under the terms of which loans of a similar character were authorized to be made either by the secretary of agriculture, or by the governor of the farm credit administration, and

BE IT FURTHER RESOLVED, That the governor of the farm credit administration be also authorized and directed to release all liens given to secure the loan or loans made to any such farmer pursuant to any such Act or joint resolution, and to notify each such farmer that no further payments of principal or interest shall be required after the date of enactment of Senate Joint Ressolution No. 20 with respect to any loan so made to him, and

BE IT FURTHER RESOLVED, That a copy of this Memorial be transmitted by the secretary of state, to the secretary of agriculture, the governor of the farm credit administration, the secretary of the interior, to the senate and house of representatives of the congress of the United States and to the senators and representatives in congress from the State of Montana and that they and each of them be requested to use all honorable means within their power to bring about such legislation.

Approved March 1, 1939.

SENATE JOINT MEMORIAL NO. 7

A Joint Memorial to the Congress of the United States Requesting the Enactment of Appropriate Legislation for the Creation of an Air Base at Fort Peck Dam.

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To the Honorable Senate and House of Representatives of the United States of America in Congress Assembled:

WHEREAS, The United States government in its program of National Defense is making provision for the rapid expansion and enlargement of aviation and is creating new army and navy air bases; and

WHEREAS, The aviation program of the United States contemplates through the cooperation of the colleges, universities and commercial schools, the training of some twenty thousand air pilots annually; and

WHEREAS, There is no army or navy air base at, or near, Fort Peck, Montana, and on account of its location, isolation, climate, and distance from other air bases, it is a logical location for an air base; and

WHEREAS, Due to the engineering skill and efficiency of the army engineers headed by General Schley, Colonels Moore, Larkin, Major Kittrell and others, the great Fort Peck Dam costing in excess of one hundred million dollars, is nearing completion; and

WHEREAS, The Fort Peck Dam will create a large lake one hundred and eighty-seven miles long, sixteen miles in maximum width and have a shore line of twenty-five hundred miles, and as such will be an important asset to an air base; and

WHEREAS, In the construction of the Fort Peck Dam, in order to properly safeguard the health and well-being of the workers, the corps of army engineers found it necessary to build the town of Fort Peck, which is modern in every way. It includes an administration building, town hall, post office, hospital, cold storage plant, garage, commissary warehouse, laundry, recreation hall, theater, hotel, laboratory, and houses for technical and supervisory employees and barracks with mess hall, toilet, and bathing facilities for other workers. Then, there is a grade as well as a high school for the children. Fort Peck is provided with natural gas for heating and also has water, sewer and electrical distribution systems, and also improved roads, alleys and sidewalks.

In addition to the above, there is considerable property in the way of equipment like a railroad running from Fort Peck to Wiota, a point on the Great Northern Railroad, large government warehouses, great quantities of construction machinery and equipment, a great hydro-electric power plant in the process of construction as well as much other property; and

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WHEREAS, With the completion of the dam, the United States government will have on hand this property, which cost many million dollars, and which will have to be sold at a great sacrifice, unless provision is made for its use at its present location.

NOW, THEREFORE, BE IT RESOLVED, By the senate, the house of representatives concurring, that the congress of the United States of America, be respectfully urged and petitioned to enact legislation creating an air base at Fort Peck, Montana, and to take all legal steps necessary to make available for such air base the town of Fort Peck and all other property and equipment belonging to the United States government on the Fort Peck project that can be used for air base purposes.

BE IT FURTHER RESOLVED, That a copy of this Joint Memorial be submitted by the secretary of the State of Montana, to the president of the United States, to both houses of the national congress, to the secretary of war and chief of the army engineers, and each of the senators and representatives in congress from the State of Montana.

Approved March 1, 1939.

SENATE JOINT MEMORIAL NO. 10

A Joint Memorial Requesting a Congressional Investigation of the Smelting and Refining Business in Order to Determine Means for the Alleviation of Economic Distress, Unemployment, and Loss to Small Mine Operators as a Result of These Smelters Being Closed.

To the Honorable Senate and the House of Representatives of the United States in Congress Assembled:

BE IT RESOLVED, By the senate of the twenty-sixth legislative assembly of the State of Montana, the house of representatives concurring:

WHEREAS, The business of smelting and refining ores is one that is so technical and intricate that it has become highly specialized and can only be engaged in by large firms and corporations; and

WHEREAS, The nature of the business has subjected it to vicious monopoly practices such as from time immemorial forced

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governments to regulate such businesses in order to protect the patrons and citizens; and,

WHEREAS, There are now in Montana a great number of independent mine owners whose initiative and resourcefulness are among the chief factors in the orderly development of the natural resources of this state; and

WHEREAS, These miners are solely dependent for their welfare upon the continued operation of smelters that can process their ores; and

WHEREAS, In recent months the closing of certain smelters in Montana has worked untold hardships upon these independent mine operators, has caused state-wide unemployment, seriously reduced the State's income, unnecessarily disrupted the economic welfare of a vital and important industry in this State; and,

WHEREAS, The smelters in Montana are owned and operated by large inter-state corporations the problem created is one that affects the nation as a whole

NOW, THEREFORE, BE IT RESOLVED That the senate of the twenty-sixth legislative assembly, of the State of Montana, the house of representatives concurring, respectfully request a congressional investigation of this monopoly practice to the end that the government of the United States of America can work out some means of regulation and control whereby the smelters of the nation will be required to maintain service for the small independent mine operators of the nation; and,

BE IT FURTHER RESOLVED That the secretary of state be requested to send copies of this resolution to Senator Burton K. Wheeler and Senator James E. Murray, United States senators from Montana, and to the Honorable James F. O'Connor and the Honorable J. Thorkelson, congressmen from Montana.

Approved March 1, 1939.

SENATE JOINT MEMORIAL NO. 12

A Memorial in Relation to the Construction of a Water Conservation Project in the Valley of the Musselshell River, Known as Dead Mans Basin or Lower Musselshell Project.

To the Honorable Franklin D. Roosevelt, President of the United States; the Honorable Burton K. Wheeler; the Honorable James E. Murray, Senators from the State of Montana; the Honorable

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Roy E. Ayers, Governor of the State of Montana; the Honorable James F. O'Conner, and the Honorable B. J. Thorkelson, Members of Congress from the State of Montana; to the Honorable Harold F. Ickes, Secretary of the Interior, to the Honorable Harry L. Hopkins, Secretary of Commerce, to the Works Progress Administration of the United States, to the Federal Emergency Administration of Public Works, to the Reconstruction Finance Corporation and to the Members of the State Water Conservation Board of the State of Montana:

Your Memorialists, the members of the twenty-sixth legislative assembly of the State of Montana, the senate and house concurring, respectfully represent as follows; that

WHEREAS, The Musselshell River is a stream which carries a large volume of water and the natural development of this stream in its lower valley for irrigation purposes requires the completion of such an irrigation project, which is to a large extent constructed; and

WHEREAS, A large portion of said project is already completed and the funds already expended will be wasted in the event same is not completed; and

WHEREAS, The residents of the Musselshell Valley who may receive benefits from this irrigation have suffered great hardships by reason of drouth and other calamities and the productive lands in this valley have suffered by reason of a lack of water for irrigation purposes; and

WHEREAS, Completion of this project will not only rehabilitate and restore to prosperity the residents of said valley, but will also irrigate lands which may furnish a supplemental livelihood to miners who work in the mines a portion of the year in the vicinity of Roundup, Montana; and

WHEREAS, The construction of this project has every element of a sound public works program and will furnish employment to needy and destitute citizens and supplement the income of miners engaged in coal production and the construction thereof and the benefits therefrom will in no manner interfere with any established business or industry; and

WHEREAS, The livelihood, the happiness and prosperity of the people of said valley depend upon this project and every motive of good business judgment and every instinct of humanity demands this work as a relief program;

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THEREFORE, BE IT RESOLVED, That we hereby petition the above named officials that we may have their full cooperation and assistance in securing the approval and speedy completion of this project, so that the relief of the people from their hardships and distress in said area be accomplished and they be restored to a permanent and successful state of prosperity.

BE IT FURTHER RESOLVED, That a copy of this Memorial be submitted by the secretary of state of the State of Montana to the Honorable Franklin D. Roosevelt, President of the United States; the Honorable Burton K. Wheeler; the Honorable James E. Murray, Senators from the State of Montana; the Honorable Roy E. Ayers, Governor of the State of Montana; the Honorable James F. O'Connor, and the Honorable B. J. Thorkelson, Members of Congress from the State of Montana to the Honorable Harold F. Ickes, Secretary of the Interior, to the Honorable Harry L. Hopkins, Secretary of Commerce, to the Works Progress Administration of the United States, to the Federal Emergency Administration of Public Works, to the Reconstruction Finance Corporation and to the Members of the State Water Conservation Board of the State of Montana.

Approved March 3, 1939.

SENATE JOINT MEMORIAL NO. 13

A Resolution Memorializing the Congress of the United States for the Passage of Legislation Making an Allowance to All Active Members of the Officers of the Reserve Corps of the Army of the United States.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

WHEREAS, There are thousands of young men in the United States who qualify themselves as officers in the army of the United States and receive respective commissions in said Reserve Corps in their respective branches; and

WHEREAS, In order to keep these commissions and remain active these officers are required to do a lot of work on their own time and without compensation; they are further required to purchase uniforms and certain equipment from their own funds. This equipment under regulations of the war department must meet

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the standard of professional efficiency under such rules as the president may prescribe; and

WHEREAS, Equity demands that if these officers are to give their time without compensation in making themselves efficient the United States should bear the actual cost and not require these officers to expend their own funds in order to equip themselves to meet the professional efficiency required.

NOW, THEREFORE, BE IT RESOLVED By the senate of the State of Montana, the house of representatives concurring, that we do hereby petition the congress of the United States of America for the passage of legislation authorizing the payment and appropriations to pay said officers each a monetary allowance of ten dollars per month during the period they qualify as such officers.

BE IT FURTHER RESOLVED That a copy of this Memorial be transmitted by the secretary of state of Montana to the senate and the house of representatives of the congress of the United States and to the senators and representatives in congress from the State of Montana, and they and each of them be requested to use all honorable means within their power to bring about the enactment of legislation to correct the present practice and to make the necessary money available as above indicated to active members of the respective corps of the army of the United States so that these members will not suffer financial loss in equipping themselves to serve their country in the event of an emergency.

Approved March 3, 1939.

SENATE JOINT MEMORIAL NO. 14

A Memorial to the Congress of the United States Requesting the Enactment of Legislation to Bring Workmen Disabled with Silicosis within the Scope of the Social Security Act and Requesting Grants in aid to States Desiring to Enact Silicosis Compensation Laws.

To the Honorable Senate and the House of Representatives of the United States in Congress Assembled:

WHEREAS, Within recent years there has been a consistent demand that occupational diseases be brought within the scope of Workmen's Compensation Laws, and

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WHEREAS, Many diseases classed as occupational are of such a nature that they are contracted in a comparatively short period of time, but silicosis, the most prevalent occupational disease, is such that it takes many years from the first date of exposure to hazard before it progresses to a disabling degree, and

WHEREAS, In an industry to which silicosis is peculiar there are always in its employ men with silicosis in various stages of advancement; in some cases due to employment in that particular risk over a series of years; in some cases due to previous employment in similar industries; or in other industries possessing a silicosis hazard, consequently it is not feasible to suddenly thrust such an accrued liability upon insurers upon the date that a silicosis compensation would go into effect, and

WHERE, Particularly with miners who are silicotic in some stage of advancement and who have worked in many states other than in the state in which they eventually become disabled the problem of compensating for prior health damage would appear to be an interstate problem, and

WHEREAS, No kind of a state compensation act can benefit those at present completely disabled with silicosis,

NOW, THEREFORE, BE IT RESOLVED That the twenty-sixth legislative assembly of the State of Montana, the senate and house concurring, hereby does petition the congress of the United States to enact legislation which will include benefits to workmen, completely disabled with silicosis, within the scope of the social security act, and legislation that will allow grants in aid to states desiring to enact silicosis compensation laws.

Approved March 3, 1939.

SENATE JOINT MEMORIAL NO. 16

A Memorial to Honorable Franklin D. Roosevelt, President of the United States, and to the Honorable Senate and House of Representatives of the United States in Congress Assembled.

Expressing appreciation of the work of the civilian conservation corps in the State of Montana, and requesting continuance thereof.

WE, Your memorialists, the senate and house of representatives of the State of Montana, convened in the legislative assembly, most respectfully represent and petition as follows:

WHEREAS, Heretofore there has been established under your authority and with your approval the following civilian conser-

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vation corps camps in the State of Montana under various departments and bureaus of the United States at Medicine Lake; Ekalaka; Sidney; Augusta; Ballantine; Winifred; Bridger; Dillon; Darby; Thompson Falls; Philipsburg; Columbia Falls; Bozeman; Libby; Neihart; Superior; Lolo; Haugan; Huson; with two camps at Malta, Yellowstone and Whitehall, and three camps at Belton; and

WHEREAS, The civilian conservation corps has contributed greatly to the improvement of roads, parks and forests; has aided in controlling soil erosion; prevented fires; eliminated swamps, and have performed many other useful functions enhancing the natural scenery and beauties of Montana of which this State is justly proud; and

WHEREAS, The work of the civilian conservation corps has aided and has resulted in rehabilitation of the men sent to work in our State; has provided such men with a new outlook on life and in general such enrollees have bettered themselves mentally, morally and physically by service in this organization; and

WHEREAS, The members of the civilian conservation corps have served in Montana with honor and fidelity and a continuance of such service is desirable from a humanitarian and economical and social view point.

NOW, THEREFORE, The legislative assembly of the twenty-sixth session of the State of Montana respectfully petitions the congress of the United States to appropriate a sufficient sum of money to continue the civilian conservation corp; and the president of the United States is hereby petitioned to use his influence in that respect and to that end.

BE IT FURTHER RESOLVED That copies of this Memorial be forwarded to the president of the United States; one each be forwarded to the president of the senate and the speaker of the house of representatives of the United States; and likewise that a copy hereof be forwarded to each of the senators and representatives from the State of Montana.

R. S. Nutt	Haight
Dahl	Montgomery
Bateman	Tierney
Pauline	Martin
Wood	Baker (Lincoln)
Martinson	Simmons
Burke	Ecton
Alvord	

Approved March 3, 1939.

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SENATE JOINT MEMORIAL NO. 18

A Resolution Memorializing the Congress of the United States for the Passage of the Legislation for the Development of the Pig-Eye Basin Storage Project in Judith Basin County, Montana as a Flood Control and Water Conservation Measure.

To the Honorable Senate and the House of Representatives of the United States in Congress Assembled:

WHEREAS, The Judith River in Judith Basin County, Montana, is in the watershed of, and the waters thereof flow into the Missouri River, and in times of unusual precipitation contribute to the flood waters of such principal stream and contribute to flood damages caused by unusually high water at seasonal times, and

WHEREAS, Heretofore in 1919 the United States geological survey has surveyed such Judith River and it has been found possible and feasible to impound approximately 11,000 acre feet of water thereof, the official storage project being known as the "Pig-eye Basin Storage Project", and that such waters can be used for the irrigation of arid or semi-arid lands in such project, and

WHEREAS, The water conservation board of the State of Montana has approved such project as a flood control and water conservation project, and

WHEREAS, The development of such project would be of inestimable value to the farming and stock growing industry in that portion of Montana; therefore be it

RESOLVED, By the senate of the State of Montana, the house of representatives concurring, that we do hereby petition the congress of the United States of America for the passage of an enabling act with sufficient appropriation of funds for the construction of the proposed Pig-eye Basin Storage Project at the earliest possible time, and be it further

RESOLVED, That copies of this resolution be sent to the Honorable Franklin D. Roosevelt, President of the United States, to the president of the senate and the speaker of the house of representatives of the United States and to each of the members of the senate and house of representatives from Montana.

Approved March 3, 1939.

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SENATE JOINT MEMORIAL NO. 19

A Resolution Memorializing the Congress of the United States for the Passage of Legislation Authorizing the Continuance of the Purchase of Silver.

To the Honorable Senate and House of Representatives of the United States of America in Congress Assembled:

WHEREAS, The "Silver Purchase Act of 1934", and proclamations of the president and the secretary of the treasury, pursuant thereto, and the purchase of silver by the secretary of the treasury of the United States have resulted in greatly increased activity in the mining business in the State of Montana; and,

WHEREAS, By reason of the renewed activity in the mining regions many theretofore unemployed have been profitably employed, many new mining properties have been opened up and operated to advantage; and,

WHEREAS, A discontinuance of the purchase of silver by the government of the United States, or the reduction in the price paid for domestic mined silver would result in the closing of many mines now being operated to advantage with resultant unemployment; and,

WHEREAS, Senator Key Pittman, under date of January 19, 1939, introduced a bill to amend the "Silver Purchase Act of 1934", and to extend the authority and power of the secretary of the treasury to purchase silver mined from natural deposits in the continental United States subsequent to June 30, 1939, at the rate and price of $1.29 per fine ounce.

NOW, THEREFORE, BE IT RESOLVED By the senate, the house of representatives concurring, that the congress of the United States of America be, and it is hereby respectfully urged and petitioned to enact the said bill amending the "Silver Purchase Act of 1934", which bill is known S. 800, or similar legislation having the same general intent and purposes, to the end that the secretary of the treasury may be authorized to continue the purchase of silver mined from natural deposits in the continental United States subsequent to June 30th, 1939.

BE IT FURTHER RESOLVED, That a copy of this Joint Memorial be submitted by the secretary of state of the State of Montana to both the senate and house of representatives of the United States of America, to the president of the United States, and to each of the senators and representatives of the State of Montana in congress.

Approved March 3, 1939.

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SENATE JOINT RESOLUTION NO. 1

A Resolution Requesting the Governor of the State of Montana to Fill the Next Vacancy on the State Highway Commission with a Man Who Will Represent the Rural Areas of the State.

Be It Resolved by the State Legislature of the State of Montana:

To the Honorable Roy E. Ayers, Governor of the State of Montana:

WHEREAS, The building of good roads has of recent years become of increasing importance to the people of the State of Montana, and an acute phase of this problem is the construction of feeder and farm-to-market roads; and

WHEREAS, The diversification of farm products has resulted in a much increased reliance of the farm population on the construction and maintenance of improved and adequate highways; and

WHEREAS, The mining and lumbering industry in Montana has come to rely upon the maintenance and construction of secondary highways in rural areas; and

WHEREAS, It is the express intent of the federal highway act that secondary and inter-county highways, and farm-to-market roads be provided for the convenience of the agricultural and farm population in the trades and marketing of their produce; and

WHEREAS, The state highway commission, as now constituted, is comprised of members from urban districts, and the rural areas have never been represented on said commission.

NOW, THEREFORE, BE IT RESOLVED By the senate of the twenty-sixth legislative assembly of the State of Montana, the house of representatives concurring, that the Honorable Roy E. Ayers, Governor of the State of Montana, be and is requested to fill the next vacancy on the state highway commission with a member representative of the rural areas of Montana, who is cognizant of the needs and problems of highway development in agricultural areas of this State to the end that the commission will be fully apprised of the transportation needs of all the people of Montana, and better able to plan a unified highway system for this State.

BE IT FURTHER RESOLVED That a copy of this Resolution be transmitted to the Honorable Roy E. Ayers, Governor of the State of Montana.

Approved February 6, 1939.

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SENATE JOINT RESOLUTION NO. 5

A Resolution Requesting Congress of the United States to Give Effect to the "Bankhead-Jones Farm Tenant Act" of July 22, 1937, to Permit a Continuation in Montana of Rural Resettlement Provisions and to Provide for the Purchase, Development, and Resale of Lands to Farm Tenants.

Be It Resolved by the Senate of the State of Montana, the House of Representatives concurring:

WHEREAS, There has been enacted by the senate and house of representatives of the United States of America in the congress assembled, and approved by the Honorable Franklin D. Roosevelt, President, an act to provide for the acquiring of farm lands and the resale thereof to farm tenants on long term payments, known as the "Bankhead-Jones Farm Tenant Act" of July 22, 1937, and

WHEREAS, Under the terms and provisions of this act some resettlement projects have been established in the State of Montana for the purchase of lands which have been purchased by persons qualified under the terms of this act, and

WHEREAS, The application of this act and the acquiring of lands and the resale thereof has been limited in the State of Montana apparently by reason of a lack of appropriation of moneys therefor, and

WHEREAS, There are thousands of persons qualified under the terms and provisions of this act and who live on submarginal lands which do not produce sufficient for subsistence of the owners, tenants or possessors of such lands, and which settlers desire to purchase more fertile lands but are hampered by a lack of funds to purchase the same on terms which they can meet, and

WHEREAS, There are many irrigation projects in the State of Montana in which lands are fertile and desirable for purposes of resettlement and can be acquired at reasonable figures and can be developed by relief labor and resold to the tenants of such submarginal lands on contracts providing for long term payments, therefore be it

RESOLVED, That you be requested and you are hereby petitioned to do all things required to give effect to the Bankhead-Jones Farm Tenant Act, cited above, to the end that good undeveloped irrigated or irrigable lands may be purchased or otherwise acquired under the terms of the act, that the same be

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developed by relief labor and that they be resold at a reasonable appraised figure, after development, to destitute farm families qualified under the terms of the act to purchase the same; that such sales be made on long term payment contracts and that the honorable congress of the United States be requested to appropriate sufficient moneys to care for such farm tenants in Montana, as may be found qualified, after a survey thereof, to come under the terms of this act; and be it further

RESOLVED, That copies of this resolution be forwarded to the Honorable Franklin D. Roosevelt, President of the United States, the president of the senate and to the speaker of the house of representatives and to each of the senators and representatives in congress from Montana.

Approved March 1, 1939.

SENATE JOINT RESOLUTION NO. 6

A Resolution Relating to the Visit to the United States of America, of Crown Prince Olav, Crown Princess Martha, and Their Staff, of Norway.

WHEREAS, Governor Roy E. Ayers has invited Crown Prince Olav and Crown Princess Martha, and their staff, to visit Helena on their trip across the United States in 1939, and

WHEREAS, The members of the twenty-sixth legislative assembly of the State of Montana, the senate and house concurring, desire to supplement the governor's invitation by extending an invitation from the legislature which represents each and every citizen in the State of Montana,

THEREFORE, BE IT RESOLVED, That we do hereby, extend an invitation from the State of Montana to Crown Prince Olav and Crown Princess Martha, and their staff, of Norway, to visit in the city of Helena, Montana, as they pass through the State of Montana during the summer of 1939.

BE IT FURTHER RESOLVED That a copy of this resolution be communicated by the secretary of state of the State of Montana through the proper channels, to the Crown Prince and Crown Princess.

STATE SENATORS OF MONTANA

A. A. Alvord	Arnold
Angvick	Baker (Dawson)
Armstrong	Baker (Lincoln)

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Bateman (Teton)
Tom Burke
Thomas Calder
F. C. Campbell
Campbell (Missoula)
F. A. Chadwick
D. W. Chapman
Chas. P. Cotter
R. C. Dahl
G. G. Davis
Drumheller
Zales N. Ecton
Arlie M. Foor
Herbert H. Haight
Hammond
Henderson
H. C. Harlen
A. E. Kathan
J. Kaulbach
W. E. Keeley
Chas. Kroman
F. M. Lamp
M. J. Lott
E. F. McQuitty
Charles H. Mahoney
Harry T. Mann
Harry T. Martin
Karl L. Martinson
F. C. Metzger
G. H. Montgomery
M. J. Mulholland
Thos. F. Murphy
R. S. Nutt
Leonard Plank
A. J. Plumer
Fred L. Robinson
A. F. Robson
R. Pauline
H. A. Simmons
Paul W. Smith
Hayes Starks
Geo. A. Swertelle
Wm. P. Tierney
W. T. Waite
Geo. R. Waldrop
John Weinschrott
Geo. W. Wilson
C. L. Wood
R. Dale Woods
Geo. Ruffcorn

STATE REPRESENTATIVES OF MONTANA

John W. Acher
W. S. Acton
Erick Anderson
W. M. Anderson
Stanley Antrim
Ory J. Armstrong
J. Hugo Aronson
C. E. Baker
O. P. Balgord
Minnie Beadle (Mrs. M. Kerr)
Martin J. Beck
A. G. Berthot
Emil G. Bjorneby
Frank A. Bower
A. J. Brower
Robert C. Brown
E. J. Byrne
Paul Cannon
L. W. Clark
Kenneth Cole
N. A. Cole
Roy D. Collins
J. W. Daniel
Jasper DeDobbeleer
Wesley A. D'Ewart
James N. Dougherty
Thomas W. Duncan
Robert J. Dunn
H. O. Ekern
S. J. Emswiler
(Bob) R. P. Findlater
John J. Flynn
Walter Freshman
Paul Friedl
R. H. Gebhardt
Phil C. Goodwin

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Henry R. Green
Arthur Hageman
Grant Hammond
H. H. Hess
Melvin Hoiness.
Frank W. Horrigan
David F. James
G. C. Kellogg
W. G. Kirscher
H. A. Lambert
Harry Laubach
Carl Lehrkind, Jr.
J. H. Leuthold
J. A. Liggett
Gordon J. Lippard
A. T. Listug
J. J. Long
H. H. Longenecker
Mike Loughran
Ray G. Lowe
Austin E. Lynch
D. M. Manning
Thomas C. Malee
Mrs. R. T. Martin
Denis McCarthy
Arthur E. McFatridge
Albert McGee
George S. McKenna
Archie D. McLeod
Marian A. Melin
Joe Metlen
Ben B. Miles
R. E. Morrison
G. M. Moss
(Slim) S. E. Moss
Thomas Murray
J. T. Newell
G. W. O'Connor
Fred H. Padbury
Clem Parker
Neil C. Parker
P. C. Petersen
John V. Potter
W. H. Reed
John E. Rice
E. R. Roehl
Thomas Ryan
Charles L. Scofield
Robert A. Siegling
Sherman W. Smith
Marvin J. Sorte
Sam Spiegel
John D. Stafford
Charles L. Stevens
G. D. Stewart
E. J. Stromnes
Frank K. Sullivan
R. G. Tyler
James H. Vanderbeck, Jr.
Fred Watson
Edward Wenger
C. J. Williams
Stuart P. Wilson
W. E. Woods
John Q. Zuck
M. A. McClain

Approved March 4, 1939.

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CHANGES OF NAMES DECREED IN 1937-1938

Date of Judgment	Original Name	Name Decreed	Residence
*Dec. 31, 1937	Vasil Atanasoff	William Tom	Miles City, Mont.
*Dec. 31, 1937	Constantius Filip Gouvanko	Gus Philip	Miles City, Mont.
Nov. 8, 1937	Stuart Anderson	Stuart Stobie	Plains, Mont.
Nov. 8, 1937	Eva May Anderson	Eva May Stobie	Plains, Mont.
Feb. 15, 1937	Clara Mabel Foley	Clara Mabel Swertelle	Roundup, Mont.
Dec. 2, 1937	Glenn Buchner	Len King	Hardin, Mont.
Dec. 20, 1937	Homer H. Neuenswander	Homer H. Neuen	Hardin, Mont.
Apr. 16, 1937	Paul Brel	Paul Berlinsky	Billings, Mont.
July 26, 1937	Anthony H. Newberger	Andrew N. Bergen	Billings, Mont.
Sept. 11, 1937	Leo Larry See	Leo Larry Ray	Billings, Mont.
Apr. 16, 1937	Torvald Lavaris Toresen	Torvald Toresen Tokerud	Dutton, Mont.
Mar. 29, 1937	George Alevizakes	George Allen	Glasgow, Mont.
July 25, 1938	Everet Granval McCune	Miller Everet Barnes	Billings, Mont.
Dec. 28, 1938	Ruth Voelker	Ruth Voelker Bakewell	Billings, Mont.
June 30, 1938	Glenn C. Boor	Glenn C. Sweaney	Rosebud County.
Aug. 10, 1938	Stanley Dominek	Stanley Claire Raye	Lewis & Clark Co.
Oct. 4, 1938	Dimitrios Christo Samaranch	Jim Christoff	Miles City, Mont.
Oct. 4, 1938	Vassilie Ristitch	William Rostoff	Miles City, Mont.
Oct. 4, 1938	Guiseppe Vono	Joe Vono	Miles City, Mont.
Feb. 26, 1938	Arthur Elmer Miller	Arthur Elmer Kuilman	Miles City, Mont.
Jan. 25, 1939	Rayola Elina Saastamoinen	Rayola Elina Sasten	Red Lodge, Mont.
Dec. 16, 1938	Misko Stefanie	Mike Stefanatz	Dillon, Mont.
Mar. 12, 1938	The Anaconda Council of Business and Professional Men	The Anaconda Commercial Club	Anaconda, Mont.

*Please be advised that the following changes have been made in changes of name through Naturalization Proceedings.

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APPENDIX

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APPENDIX

The following constitutional amendments, adopted by vote of the people at the general election held November 8, 1938, became effective by virtue of the governor's proclamation on December 2, 1938.

CHAPTER 93

An Act to Provide for the Submission to the Qualified Electors of the State of Montana of an Amendment to Section 5 of Article XVI of the Constitution of the State of Montana Relating to the Qualifications and Terms of Office of County Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5 of Article XVI of the constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana at the general election to be held in November, 1938.

Section 2. That Section 5 of Article XVI of the constitution of the State of Montana be, and the same is hereby amended, so as to read as follows:

"Section 5. There shall be elected in each county the following county officers who shall possess the qualifications for suffrage prescribed by Section 2 of Article IX of this constitution and such other qualifications as may be prescribed by law:

One county clerk who shall be clerk of the board of county commissioners and ex-officio recorder; one sheriff; one treasurer, who shall be collector of the taxes, provided, that the county treasurer shall not be eligible to his office for the succeeding term; one county superintendent of schools; one county surveyor; one assessor; one coroner; one public administrator. Persons elected to the different offices named in this section shall hold their respective offices for the term of four (4) years, and until their successors are elected and qualified. Vacancies in all county, township and precinct offices, except that of county commissioners, shall be filled by appointment by the board of county commissioners, and the appointee shall hold his office until the next general election; provided, however, that the board of county commissioners of any county may, in its discretion, consolidate any two or more of the within named

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offices and combine the powers and the duties of the said offices consolidated; however, the provisions hereof shall not be construed as allowing one (1) office incumbent to be entitled to the salaries and emoluments of two (2) or more offices; provided, further, that in consolidating county offices, the board of county commissioners shall, six (6) months prior to the general election held for the purpose of electing the aforesaid offices, make and enter an order, combining any two (2) or more of the within named offices, and shall cause the said order to be published in a newspaper, published and circulated generally in said county, for a period of six (6) weeks next following the date of entry of said order."

Section 3. This amendment shall be submitted to the qualified electors of the State of Montana by being placed on the official ballot, provided by Section 678 Revised Codes of Montana 1935, and as provided by law, and there shall be printed on such ballot the title of this act and the following words:

For the above amendment

Against the above amendment

The elector shall designate his preference for either of the propositions by making an X before the proposition for which he desires to vote.

Section 4. The votes cast for and against the amendment herein proposed shall be counted, canvassed and determined by such officials and in such manner as provided by law, and if a majority of all votes cast at such election for and against such amendment shall be in favor of such amendment, the governor of the state shall so declare by public proclamation, and the amendment shall be in full force and effect as a part of the constitution from and after the date of such proclamation.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1937.

CHAPTER 99

An Act to Submit to the Qualified Electors of the State of Montana an Amendment to Sections 6, 7, 8, 9, 10 and 11 of Article XXI of the Constitution of the State of Montana Relating to the In-

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vestment and Administration of the Public School Permanent Fund, the Other Permanent Funds Originating in Land Grants from the United States for the Support of Higher Institutions of Learning, and of Other Funds as Separate and Integral Funds of the Montana Trust and Legacy Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Sections 6, 7, 8, 9, 10 and 11 of Article XXI of the constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana at the next general election.

Section 2. That Sections 6, 7, 8, 9, 10 and 11 of Article XXI of the constitution of the State of Montana be, and the same are hereby amended to read as follows:

"Section 6. (of Article XXI) The public school permanent fund, the other permanent funds originating in land grants from the United States for the support of higher institutions of learning, and for other state institutions, subject to investment, shall be invested as parts of the Montana trust and legacy fund; so also all other funds in the custody of any officer or officers of the state, subject to investment, that the legislative assembly may prescribe. The separate existence and identity of each and every fund invested and administered as a part of the Montana trust and legacy fund shall be strictly maintained.

All investments belonging to the public school permanent fund, except investments in state farm mortgage loans, and all investments belonging to the said land grant funds, shall be transferred to the Montana trust and legacy fund at the full amounts of the unpaid balances of such investments.

Section 7. (of Article XXI) The state shall accept for investment and administration as parts of the Montana trust and legacy fund, sinking funds, permanent funds, cumulative funds and trust funds belonging to or in the custody of any of the political subdivisions of the state when requested to do so by the governing board of such political subdivision, subject, however, to such limitations as the legislative assembly may prescribe. The legislative assembly may provide for the investment and administration as a part of the Montana trust and legacy fund of any other fund subject to its power.

Section 8. (of Article XXI) The Montana trust and legacy fund shall be safely and conservatively invested in public securi-

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ties within the state, as far as possible, including school district, county and municipal bonds, and bonds of the State of Montana; but it may also be partly invested in bonds of the United States, bonds fully guaranteed by the United States as to principal and interest, and Federal Land bank bonds. All investments shall be limited to safe loan investments bearing a fixed rate of interest. In making long term investments preference shall be given to securities payable on the amortization plan or serially. The legislative assembly may provide additional regulations and limitations for all investments from the Montana trust and legacy fund.

All existing constitutional guarantees against loss or diversion applying to the public school fund, to the funds of the state university and to the funds of all other state institutions of learning, shall remain in full force and effect.

Section 9. (of Article XXI) On the last day of March, of June, of September and of December of each year, the state treasurer shall apportion all interest collected for the Montana trust and legacy fund during the three-month period then terminating to all the separate and integral funds which constitute such fund on the day of such apportionment and which constituted parts of the fund on the first day of the three-month period then terminating. The basis of apportionment shall be the average amount of each such fund between the first day and the last day of the three-month period.

Section 10. (of Article XXI) The state treasurer shall keep all deposits of money belonging to the Montana trust and legacy fund separate and distinct from other deposits of money in his keeping.

Section 11. (of Article XXI) All money in any of the separate and integral funds constituting the Montana trust and legacy fund and the interest apportioned therefrom, shall be subject to payment to the person, institution or other entity entitled thereto, without appropriation by the legislative assembly, upon proper authorization as provided by law."

Section 3. That separate official ballots shall be provided at the general election to be held in November, 1938, which shall have printed thereon under the heading "Proposed Amendment to Sections 6, 7, 8, 9, 10 and 11 of Article XXI of the Constitution of the State of Montana" all of the said Sections 6, 7, 8, 9, 10 and 11 as amended by this act. There shall also be printed on the official ballots following the said sections the following:

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☐ For the foregoing amendment to the constitution

☐ Against the foregoing amendment to the constitution

The elector shall indicate his preference by marking X before the proposition for which he desires to vote.

Section 4. That the votes cast for and against this proposed amendment shall be canvassed, determined and declared as provided by law.

Section 5. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Section 6. That this act shall be in full force and effect from and after its passage and approval by the governor.

Approved March 15, 1937.

The following referendum measure adopted by vote of the people at the general election held November 8, 1938, became effective by virtue of the governor's proclamation on January 21, 1939:

CHAPTER 84

HOUSE BILL 196

An Act to Regulate, License and Authorize the Sale of Liquor at Retail in the State of Montana; Authorizing, Empowering and Directing the Montana Liquor Control Board to Issue Retail Liquor Licenses to Persons Qualified Under This Act to Sell Liquor at Retail; Defining Certain Words and Terms Used in This Act; Providing for a License Tax and Fixing the Amount of License Fees to Be Paid for Said License; Authorizing the Montana Liquor Control Board to Charge and Collect an Excise Tax on All Liquor Sold by It; Prescribing the Hours During Which Liquor May Be Sold and the Place, Manner and Conditions for the Sale Thereof; Authorizing the Sale of Liquor to Licensees by State Liquor Stores; Prohibiting the Sale and/or Traffic in Liquor Other Than Purchased at State Liquor Stores, and Prohibiting the Sale of Liquor to Minors and Other Designated Persons; Authorizing the Montana Liquor Control Board to Prescribe and Promulgate Rules and Regulations with Statutory Effect; Providing for the Suspension and Revocation of

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Licenses; Providing for Hearings by the Board and Appeals from Decisions Thereof; Providing for Local Option in the Counties in the State and Holding Elections in Respect Thereto; Granting to the Montana Liquor Control Board Strict Regulation and Control of Licenses and Licensees and Declaring the Policy of Law in the Sale of Liquor; Providing for Allocation of Revenue Derived from Licenses and Excise Taxes; Declaring This Act to Be an Emergency Measure; and Providing Penalties for the Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

It is hereby declared as the policy of the state that it is necessary to further regulate and control the sale and distribution within the state of alcoholic beverages, and to eliminate certain illegal traffic in liquor now existing and to insure the entire control of the sale of liquor in the Montana liquor control board, it is advisable and necessary, in addition to the operation of the state liquor stores now provided by law, that the said board be empowered and authorized to grant licenses to persons qualified under this act, to sell liquor purchased by them at state liquor stores at retail posted price in accordance with this act and under rules and regulations promulgated by the said board, and under its strict supervision and control, and to provide severe penalty for the sale of liquor except by and in state liquor stores and by persons licensed under this act. The restrictions, regulations and provisions contained in this act are enacted by the legislature for the protection, health, welfare and safety of the people of the state.

Section 2. The following words and phrases used in this act shall be given the following interpretation:

1. "Board" means the Montana liquor control board.

2. "Club" means a national fraternal organization, except college fraternities, or an association of individuals organized for social purposes and not for profit, with a permanent membership and an existence of two years prior to making application for a license with permanent quarters or rooms.

3. "State Liquor Store" means a liquor store established and operated by the Montana liquor control board under the laws of Montana.

4. "License" means a license issued by the Montana liquor control board to a qualified person, under which it shall be lawful for the licensee to sell and dispense liquor at retail as provided in this act.

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5. "Licensee" means the person to whom a license is issued.

6. "Person" means every individual, co-partnership, corporation, hotel, restaurant, club and fraternal organization, and all licensed retailers of liquor, whether conducting the business singularly or collectively.

7. "Liquor" means all kinds of liquor sold by and/or in a state liquor store.

8. "Interdicted person" means a person to whom the sale of liquor is prohibited under the laws of Montana.

9. "Rules and regulations" means rules and regulations made and promulgated by the Montana liquor control board in accordance with the provisions of this act.

All other words and phrases used in this act, the definition of which is not herein given, shall be given the ordinary meaning.

Section 3. The Montana liquor control board is hereby empowered, authorized and directed to issue licenses to qualified applicants as herein provided, whereby the licensee shall be authorized and permitted to sell liquor at retail, and upon the issuance of such license the licensee therein named shall be authorized to sell liquor at retail but only in accordance with the rules and regulations promulgated by the said board and the provisions of this act. Qualified applicants shall include persons, hotels, clubs, fraternal organizations and railway systems.

Section 4. Each licensee licensed under the provisions of this act shall pay an annual license fee as follows:

For each license in cities with a population of ten thousand (10,000) or more and within a distance of five (5) miles thereof, outside of an incorporated city or town, six hundred dollars ($600.00) per annum. For each license in cities with a population of more than five thousand (5,000) and less than ten thousand (10,000) and within a distance of five (5) miles thereof, outside of an incorporated city or town, four hundred fifty dollars ($450.00) per annum. For each license in cities with a population of more than two thousand (2,000) and less than five thousand (5,000), three hundred dollars ($300.00) per annum. For each license in cities, towns and unincorporated villages and towns, with a population of less than two thousand (2,000), two hundred dollars ($200.00) per annum. Fraternal organizations one hundred dollars ($100.00) per annum.

For each railway system in the State of Montana, three hundred dollars ($300.00) per annum.

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The license fees herein provided for are exclusive of and in addition to other license fees chargeable in the State of Montana for the sale of liquor, beer and malt beverages.

Section 5. Prior to the issuance of a license as herein provided, the applicant shall file with the Montana liquor control board an application in writing, signed by the applicant, and containing such information and statements relative to the applicant and the premises where the liquor is to be sold, as may be required by the Montana liquor control board. The application shall be verified by the affidavit of the person making the same before a person authorized to administer oaths. If any false statement is made in any part of said application, the applicant, or applicants, shall be deemed guilty of misdemeanor and upon conviction thereof the license, if issued, shall be revoked and the applicant, or applicants, subjected to the penalties provided by law.

Section 6. Upon receipt of an application for a license under this act, accompanied by the necessary license fee and bond, the board shall within thirty (30) days thereafter, cause to be made a thorough investigation of all matters pertaining thereto, and shall determine whether such applicant is qualified to receive a license and his premises are suitable for the carrying on of the business, and whether the requirements of this act and the rules and regulations promulgated by the board are met and complied with.

Section 7. Any railroad operating a dining and buffet car in connection with regular operated train service desiring a license to sell liquor under the provisions of this act in said dining and buffet car, shall first apply to the board for a license so to do, accompanying the application with the license fee herein prescribed. Upon being satisfied from said application, or otherwise, that the applicant is qualified the board shall issue a license to such railroad for the sale of liquor by such carrier in all of its dining and buffet cars, which shall at all times be prominently displayed in the cars where liquor is served. Upon the payment of the one license fee herein required to be paid, duplicates of said license shall be provided by the board, to be posted in the different cars operated within the state under the one license.

Section 8. Every license issued under this act shall set forth the name of the person to whom issued, the location by street and number of the premises where the business is to be carried on under said license, and such other information as the board shall deem necessary. If issued to a partnership the names of the persons conducting the business. Such license shall be signed by the licensee, shall be non-transferable except and only with the consent of the

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board, shall be posted in a conspicuous place on the premises in respect to which it is issued and shall be exhibited to any duly authorized representative of the board whenever the same is requested. Every license issued under the provisions of this act is separate and distinct, and no person, except the licensee therein named, shall exercise any of the privileges granted thereunder, and all licenses are applicable only to the premises in respect to which they are issued. All licenses shall expire on January first of each year.

Section 9. No person shall be granted more than one license in any year. No person, club, or fraternal organization shall be entitled to a license under this act unless such person, club, or fraternal organization shall have a beer license issued under the laws of Montana.

Section 10. No license shall be issued by the board to:

1. A person who has been convicted of being the keeper or is keeping a house of ill fame.

2. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality, or the laws of the federal government or the State of Montana.

3. A person whose license issued under this act has been revoked for cause.

4. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.

5. A person who is not qualified or whose premises do not conform to the provisions of this act, or with the rules and regulations promulgated by the board.

6. A person who is not a citizen of the United States and who has not been a citizen of the State of Montana for at least five (5) years and who has not been a citizen of the county in which the license is to be issued for at least one (1) year.

Section 11. No licensee shall sell, deliver or give away, or cause or permit to be sold, delivered or given away, any liquor to:

1. Any minor actually under the age of twenty-one (21) years, unless such minor is accompanied by his parent or guardian.

2. Any intoxicated person or any person actually, apparently or obviously intoxicated.

3. A habitual drunkard.

4. An interdicted person.

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Section 12. No liquor shall be sold, offered for sale or given away upon any premises licensed to sell liquor at retail during the following hours:

(a) Sunday, from two a. m. to one p. m.;

(b) On any other day between two a. m. and eight a. m.;

(c) On any day of a general or primary election during the hours when the polls are open, excepting bond elections. When any city, or incorporated or unincorporated town has any ordinance further restricting the hours of sale of liquor, such restricted hours shall be the hours during which the sale of liquor at retail shall not be permitted within the jurisdiction of any such city or town.

Section 13. No license shall be granted for any premises which shall be on the same street or avenue and within six hundred feet of a building occupied exclusively as a church, synagogue or other place of worship, or school, except a commercially operated school; the measurements to be taken in a straight line from the center of the nearest entrance of such school, church, synagogue or other place of worship to the center of the nearest entrance of the premises to be licensed; except, however, that no license shall be denied because such restriction may apply to any premises so located which are maintained as a bona fide hotel, restaurant, railway car, club or fraternal organization or society except similar places of business established and in actual operation for one year prior to the passage and approval of this act.

Section 14. The board is hereby authorized to sell through its stores all kinds of liquor, wine and cordials kept in stock to licensees licensed under this act at the posted price thereof in the store in which said liquor is sold. All sales shall be upon a cash basis. The posted price as used herein shall mean the retail price of such liquor as fixed and determined by the Montana liquor control board and in addition thereto an excise tax as in this act provided.

Section 15. The Montana liquor control board is hereby authorized and directed to charge, receive and collect at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the State of Montana an excise tax at the rate of fifty cents (50c) per gallon or proportional part thereof on all liquor so sold and delivered. The Montana liquor control board shall retain the amount of such excise tax received in a separate account and shall deposit with the state treasurer, to the credit of the general fund, such sums so collected and received not later than the tenth day of each and every month.

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Section 16. The state liquor store shall upon each and every sale of liquor to any licensee, issue a duplicate invoice of the liquor purchased as provided by said board, a copy of which shall be delivered to the licensee and one copy retained at such store. The invoice shall show the date of purchase, name of employee making the sale, the quantity of each kind of liquor purchased, the price paid therefor, the name of the licensee and the number of the license, with such other information as may be required by the board. The licensee shall keep and retain his duplicate invoice of all purchases made by him from the state liquor store, which shall at all times be subject to inspection by the duly authorized officers, agents and employees of the board.

Section 17. It shall be unlawful for any licensee to sell or keep for sale and/or have on his premises for any purpose whatever, any liquor except that purchased from the state liquor store, and any licensee found in possession of, or selling and keeping for sale, any liquor which was not purchased from a state liquor store, shall, upon conviction, be fined not less than five hundred dollars ($500.00) nor more than fifteen hundred dollars ($1,500.00), or by imprisonment for not less than three (3) months nor more than one (1) year, or both such fine and imprisonment, and if the board shall be satisfied that any such liquor was knowingly sold or kept for sale within the licensed premises by such licensee, or by his agents, servants or employees, it shall be mandatory that said board immediately revoke the license of said licensee.

Section 18. Any person, who has not been issued a license under this act, who shall sell or keep for sale any alcoholic liquor, shall be guilty of a felony and upon conviction thereof shall be fined not less than one thousand dollars ($1,000.00) nor more than five thousand dollars ($5,000.00), or be imprisoned in the state prison for not less than one (1) nor more than five (5) years, or both such fine and imprisonment.

Section 19. It shall be unlawful for any licensee under the provisions of this act to resell any liquor purchased by such licensee from a state liquor store for a sum less than the posted price established by the said store and paid by the licensee therefor.

Section 20. No member or employee of the board, including those engaged in the sale of liquor at the various state liquor stores, shall be directly or indirectly engaged in dealing in liquor whether as owner, part owner, member of a syndicate, share holder or otherwise, whether for his own benefit or in a fiduciary capacity for others.

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Section 21. Any sheriff, police officer, or inspector appointed under this act, who shall find any alcoholic beverages, liquor or moonshine which is kept or held by any person for sale or other disposition in violation of this act, may forthwith seize and remove the same, and keep the same as evidence, and upon conviction of a person for violation of the provisions hereof, the said liquor and all packages containing the same shall be forfeited to the State of Montana, and in addition the person so violating the law shall be subject to the penalties herein prescribed.

Section 22. For the purpose of the administration of this act the board shall make, promulgate and publish such rules and regulations as the said board may deem necessary for carrying out the provisions of this act and for the orderly and efficient administration hereof, and except as may be limited or prohibited by law and the provisions of this act, such rules and regulations so made and promulgated shall have the force of statute. Every licensee shall advise himself of such rules and regulations, and ignorance thereof shall be no defense. Without limiting the generality of the foregoing provision, the said board shall be empowered and it is made its duty to prescribe forms to be used in the administration of this act, the proof to be furnished and the conditions to be observed in the issuance of licenses, prescribing forms or records to be kept of the sale of liquor by stores, prescribing notices required by this act or the regulations thereof, and the manner of giving and serving the same, prescribing, subject to the provisions of this act, the conditions and qualifications necessary to obtain a license, the books and records to be kept by the licensee, the form of returns to be made by them, and providing for the inspection of such licensed premises, specifying and describing the place and manner in which the liquor may be lawfully kept or stored, covering the conduct, management and equipment of premises licensed to sell liquor and make regulations respecting the sale and consumption of liquor in clubs, hotels and other places of business of licensees.

Section 23. The board may upon its own motion, and shall upon a written verified complaint of any other person, investigate the action and operation of any licensee hereunder, and shall have power to temporarily suspend and/or permanently revoke a license issued under this act for violation of the provisions of this act or any rule or regulation promulgated by the board.

Section 24. Upon the filing with the board of a verified complaint charging the licensee with the commission of any act which would be cause for the suspension or revocation of a license, within

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one year prior to the date of filing said complaint, the above said board shall forthwith issue a citation directing the licensee to appear before the said board within ten days after the date of the service of said citation and, by filing his verified answer to the complaint, show cause, if any, why his license should not be suspended or revoked. Service of the citation may be effected by mailing a true copy thereof with a true copy of the complaint by registered mail addressed to the licensee at his last address of record or by the sheriff of the county in which the licensee resides. Failure of the licensee to answer shall be deemed an admission by him of the truthfulness of the charge made and thereupon the said board shall be authorized to forthwith suspend or revoke the license.

Section 25. Upon filing of the answer of the board shall fix the time and place of the hearing on the charges made, which hearing shall be in the county where the licensee resides, and not less than five (5) days notice of said hearing shall be given to the complainant and licensee. The notice of hearing shall be served in the same manner as is the citation herein provided for. With the notice of the hearing to the complainant, there shall be attached a true copy of the answer of the licensee. If either party has appeared by counsel the notice shall be given in like manner to the counsel of said party. Upon the hearing the board shall hear the evidence presented, which may be in the form of oral testimony or affidavits, or both. After the hearing has been concluded the said board shall, within ten days, render its decision in writing, stating the reasons therefor. Notice of the decision, with copy thereof, shall be served upon the parties, or their counsel, in the manner herein provided as to other notices. When the board shall have revoked or cancelled a license previously issued by it, the board shall notify the licensee in writing by registered mail, to the address of such licensee, of its action, giving reasons thereof, and thereupon such licensee shall have the right to appeal to the district court of the county in which he shall reside, from the action of the board, by filing a notice of appeal with the clerk of the district court and paying the filing fee required to commence a suit or action in the district court, which appeal must be so taken within thirty (30) days after the order made and entered by the board. The trial shall be had before the district court upon the record presented to the board, and upon which its decision was rendered, and there shall not be any additional evidence introduced or anything in the nature of a trial de novo. Pending decision on appeal the licensee must file a good and sufficient bond in the sum of two thousand dollars ($2,000.00), payable to the State of Montana,

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conditioned that he will pay all costs and be responsible for any and all violations of the law on his premises, pending final disposition of the appeal.

Section 26. The board or any duly authorized representative thereof, or the sheriff of any county, shall have the right at any time to make an examination of the premises of such licensee as to whether the law of Montana and the rules and regulations of the said board are being complied with, and shall also have a right to inspect cars of any railway system licensed under this act.

Section 27. After suspension or revocation of a license the board shall have the power to renew the same if in its discretion a proper showing therefor has been made.

Section 28. The city council of any incorporated town or city, or the county commissioners outside of any incorporated town or city, may provide for the issuance of licenses to persons to whom a license has been issued under the provisions of this act, and may fix license fees thereof, not to exceed a sum equal to fifty per cent (50%) of the license fee collected by the board from such licensee under this act.

Section 29. All receipts from license fees, fines and penalties collected under the provisions of this act shall be paid to the state treasurer and by him apportioned and allocated as follows: Fifty per cent (50%) to the state public school general fund and fifty per cent (50%) to the public welfare fund for the administration of the social security laws.

Section 30. The provisions of this act as to the issuance of licenses as herein provided shall be effective thirty (30) days after the passage and approval of this act. In the event that during the said period of thirty (30) days, a duly verified petition in writing signed by not less than thirty-five per centum (35%) of the registered qualified electors of any county file with the board of county commissioners their protest against the issuance of any licenses as herein provided by the Montana liquor control board under the provisions of this act, then the said Montana liquor control board shall not issue any license or licenses within said county, except as herein provided.

The board of county commissioners must within five (5) days after the filing of said petition, meet and determine the sufficiency of the petition presented by ascertaining whether or not at least thirty-five per centum (35%) of the signers of said petition are registered electors of the territory or county affected. The board

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of county commissioners must within ten (10) days after the filing of such petition, if such petition be sufficient therefor make an order calling an election to be held within the county in the manner and at the places of holding an election for county offices in such county. Such election to be held on a day fixed by the board of county commissioners not more than thirty (30) days after the filing of such petition for the purpose of determining whether or not any license for the sale of spirituous liquors may be sold within the limits of the county as provided by the provisions of this act.

Section 31. The notice of election must be published once a week for four (4) weeks in such newspapers in the county where the election is to be held as the board of county commissioners may think proper.

Section 32. The county clerk must furnish the ballots to be used at such election, as provided in the general election law, which ballots must contain the following words: "Sale of Alcoholic Beverages, Yes", "Sale of Alcoholic Beverages, No", and the elector in order to vote must mark an "X" opposite one of the answers.

Section 33. The polling places must be established, the judges and other officers to conduct the election must be designated, and the election must be held, canvassed and returned in all respects in conformity to the laws of the state.

Section 34. If a majority of the votes cast are "Sale of Alcoholic Beverages, Yes", the provisions of this act shall take effect immediately. If a majority of the votes cast are "Sale of Alcoholic Beverages, No", the board of county commissioners must publish the result once a week for four (4) successive weeks in the paper in which the notice of election was given, and at the expiration of the time of the publication of such notice all existing licenses shall be cancelled and it shall thereupon be unlawful to sell, either directly or indirectly, any liquor in such county under penalty of a fine of not more than five hundred dollars ($500.00) or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment; provided, however, that nothing herein contained shall be construed to prevent or prohibit the sale of liquor at or by a state liquor store under the liquor control act.

Section 35. Any election held under the provisions of the act may be contested in the same manner as provided by the general election laws.

Section 36. If no petition protesting against the issuance of licenses as herein provided be filed with the board of county com-

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missioners within thirty (30) days after the passage and approval of this act, or if a majority of the votes cast at any election held in pursuance of the filing of said petition as herein provided, are "Sale of Alcoholic Beverages, No", then there shall not be submitted to the qualified electors of said county any other or further question as to the sale of alcoholic beverages within said county for a period of two (2) years from and after the date of the filing of said petition protesting the issuance of said license as herein provided with the board of county commissioners.

Section 37. No business shall be carried on under any license issued under this act except in the name of the licensee. No license shall be effective until a permit shall have been first secured under the laws of the United States if such a permit is necessary or is required under such law.

Section 38. Any person violating any of the provisions of this act, shall upon conviction thereof, be deemed guilty of a misdemeanor and punishable by such fine or imprisonment, or both, as provided by law, except as is herein otherwise provided. If any such licensee is convicted of any offense under this act his license shall be immediately revoked.

Section 39. If any clause, sentence, paragraph, section or any part of this act shall be declared and adjudged to be invalid and/or unconstitutional, such invalidity or unconstitutionality shall not affect, impair, invalidate or nullify the remainder of this act. This act shall apply to the Montana liquor control board as now composed and existing, and to any board or commission which may hereafter succeed the above said board.

Section 40. All acts and parts of acts in conflict hereto are hereby repealed, but this act shall not be construed to repeal or amend any provision or section of the state liquor control act of Montana, except in so far as the same is in conflict with this act.

Section 41. This act, except as herein otherwise specifically provided, shall be in full force and effect from and after its passage and approval.

Approved March 5, 1937.

The following initiative measure adopted by vote of the people at the general election held November 8, 1938, became effective by virtue of the governor's proclamation on November 13, 1938:

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PROPOSED PETITION FOR INITIATIVE NO. 41
STATE HIGHWAY TREASURY ANTICIPATION DEBENTURES ACT OF 1938
INITIATIVE MEASURE

A Bill to Enact by the Initiative a Law to Be Known as the State Highway Treasury Anticipation Debentures Act of 1938; Authorizing the Issuance of Debentures of the State of Montana in the Principal Sum of Three Million Dollars ($3,000,000) at Such Times and in Such Amounts Up to the Said Principal Sum, as Shall from Time to Time Be Required for the Purpose Hereinafter Set Forth; and Providing for the Sale Thereof for the Use of the State Highway Fund in Matching Federal Highway Grants and Assuring the Ability of the State of Montana to Secure Moneys Made Available by Acts of Congress in Reference to Highways; Providing for a Tax on Gasoline or Motor Fuels and Anticipating Revenues Therefrom; Prescribing the Form and Conditions of Said Debentures and Interest Thereon at a Rate Not Exceeding Four Percentum (4%); Providing the Date of Their Maturity and of Calling or Payment Thereof; Providing a Method by Which the State Treasurer May Purchase Such Debentures and Providing That Such Debentures May Be Accepted as Security for the Repayment of Public Moneys; Prescribing the Conditions Under Which the Sale of Such Debentures May Be Made and the Use of the Funds to Be Derived from the Sale of Such Debentures; Providing for the Repayment of Both Principal and Interest of Such Debentures and for the Pledging and Setting Aside of a Sufficient Amount of said Excise Tax on Gasoline or Motor Fuel to Pay the Same from the State Highway Treasury Redemption Fund Herein Created; Providing for the Creation of a Liability Binding the State of Montana Not to Reduce the License Tax on Gasoline or Motor Fuel as the Same Now Exists, Being Now Five Cents (5c) per Gallon of Gasoline Purchased for Use in Propelling Motor Vehicles Upon the Highways of the State of Montana, Until After the Accrual of a Sufficient Amount of Money in Such Highway Treasury Redemption Fund to Pay in Full the Principal and Interest of Such Debentures Lawfully Issued Under the Authority Hereof; and Providing That No Part of the Gasoline Excise Tax Mentioned Be Diverted to Any Other Purpose Than Use for Highway Construction, Betterment and Maintenance.

Be it enacted by the People of Montana:

Section 1. That for the purpose of anticipating the revenue to accrue in the state highway fund of the State of Montana and for

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the purpose of assuring the ability of the State of Montana to secure any funds or moneys allocated to the State of Montana and made available to it by the acts of the congress of the United States in reference to the construction, betterment and maintenance of highways and to provide additional working funds for the state highway commission of the State of Montana in reference to the roads and highways of the state, a series of loans for the use and benefit and in the name of the State of Montana in a total principal sum of not to exceed three million dollars ($3,000,000), is hereby authorized and directed, the proceeds of which loans shall be paid into the state treasury of the State of Montana and placed in the state highway fund therein, to be used for the purposes herein provided.

Section 2. Such loans shall be negotiated by the issuance of a series of state highway anticipation debentures of the State of Montana, at such times and in such amounts only as the state highway commission shall from time to time determine and by order direct, shall be necessary to make available to secure or match federal funds or moneys allocated to the State of Montana for highway purposes, and bearing interest at a rate not exceeding four per centum (4%) per annum, payable semi-annually.

All of such debentures so issued shall mature at the expiration of ten (10) years from and after the date thereof and shall be callable and payable at or on any interest payment date after the expiration of five (5) years from and after the date thereof, at the option of the state treasurer of the State of Montana and upon at least thirty (30) days' notice to the owner or holder thereof, by registered mail, prior to the date on which such debentures shall be called for payment.

The said state highway debentures shall be substantially in the following form, to-wit:

No..... $.....

UNITED STATES OF AMERICA

STATE OF MONTANA

STATE HIGHWAY TREASURY ANTICIPATION DEBENTURE

(State Highway Fund)

FOR VALUE RECEIVED, The State of Montana acknowledges itself to owe and promises to pay from the state highway fund of the State of Montana, at the office of the state treasurer of the

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State of Montana, at Helena, Lewis and Clark County, Montana, on the .....day of....., A. D. 19....., the sum of.....($.....) dollars in lawful money of the United States of America, together with interest thereon in like money at the rate of four percentum (4%) per annum from the date thereof, such interest to be payable semi-annually, on the first day of January and July each year. This debenture is one of a series of debentures aggregating the principal sum of a total par value of..... ($.....) dollars, all of which debentures are identical in terms and conditions save and except as to the numbers, dates, denominations and maturities, unless called for payment at or on an interest payment date after the expiration of five (5) years from and after their dates. All debentures of this series are entitled to payment at maturity in the order of their presentation at the office of the state treasurer of the State of Montana, but are otherwise entitled to no priority or preference, the one over the other, and all are issued in pursuance of and subject to the terms and provisions of the state highway treasury anticipation debentures act of 1938. This debenture, and all other debentures of this series, may be called for payment and paid by the state treasurer of the State of Montana, at his option, five years from and after the date of issue and after notice thereof by registered mail to the owner or holder thereof. This debenture and all other debentures of this series, is secured by the moneys derived from the excise or license tax on gasoline or motor fuels as provided for in said act and not otherwise.

It is hereby certified, recited and declared that all matters, acts, conditions, and things required by law to make this debenture a valid outstanding and binding obligation against the state highway fund of the State of Montana, have happened and been done and performed, and the State of Montana hereby pledges its faith and credit that the excise or license tax on gasoline or motor fuels, as provided in said act authorizing the issuance hereof, shall not be reduced so long as this debenture or any of the debentures of this series shall remain outstanding and unpaid, except as in said act provided.

In witness whereof, and pursuant to the authority vested in them and each of them, and under and by direction of the aforesaid act, the governor and the state treasurer of the State of Montana have hereunto affixed their and each of their official signatures, and the secretary of state of the State of Montana has attested the same by his official signature and the great seal of the State of Montana,

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at Helena, the capital of said state, this.....day of....., A. D. 19.....

.....
Governor of the State of Montana.

.....
State Treasurer of the State of Montana.

Attest:

.....
Secretary of State of the State of Montana.

On the back of each of said debentures shall be printed the following: "This debenture registered in my office this.....day of....., A. D. 19.....

.....
State Treasurer of the State of Montana."

Section 3. All of said state highway anticipation debentures shall bear date on the day they are actually issued and shall be issued serially and shall be due and payable as provided in Section 1 of this act. The principal and interest of said debentures shall be payable to the bearer at the office of the state treasurer of the State of Montana at Helena, Montana, at maturity and shall be entitled to payment in the order of their presentation at maturity unless sooner called and paid as provided for in Section 2 of this act; otherwise without preference or priority one over the other.

Section 4. The issue and sale of said debentures shall constitute an irrevocable contract between the State of Montana and the owner of any of said debentures that the excise or license tax on gasoline or motor fuels or dealers or distributors therein, as provided in this act, or in any of the other laws of the State of Montana, shall not be reduced, nor any part thereof diverted to any other purpose than as at present provided by law so long as any of said debentures remain outstanding and unpaid, and that the State of Montana will cause such taxes to be promptly collected, and after the payment of drawbacks or refunds, that the state treasurer shall set aside from the said proceeds of said license taxes, into a fund to be known as the state highway treasury debenture redemption fund, a sufficient amount of money each month during the years 1939, 1940 and 1941, to provide for the payment of the interest accruing during said years, and beginning with the month of January, 1942, and each month thereafter, he shall set aside in such fund from said proceeds sufficient money to provide for the payment of the interest accruing in 1942 and each subsequent year, and in addition thereto he shall set aside in such fund at least a

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sufficient amount of money to provide in the aggregate for the payment of the principal amount of all such debentures at the maturity of each thereof and such further amounts as the state highway fund and the necessities for the use thereof will warrant, from time to time for the purpose of calling and retiring debentures before their maturity dates as in this act permitted. The said license or excise taxes upon gasoline or motor fuels and dealers and distributors therein as herein provided, shall be irrepealable until all of said debentures and the interest to accrue thereon shall have been fully paid, and all of said debentures and the interest thereon shall be paid from the proceeds of said excise taxes; provided that nothing in this act shall prevent the reduction of such excise taxes when sufficient moneys to pay the principal and accrued interest on all of said debentures have been set aside in said state highway treasury debenture redemption fund.

Section 5. The state highway treasury anticipation debentures herein provided for shall be sold by the state treasurer and the state highway commission to the highest or best bidder for cash at not less than par and accrued interest, and at such times and in such amounts, subject to the limitations herein provided, as may be authorized by said state highway commission by resolution to be entered of record in the minutes of their proceedings.

Immediately upon the passage or adoption by the said state highway commission of such resolution providing for the issuance and sale of any of said debentures, a certified copy of said resolution shall be delivered to the state treasurer who, immediately upon receipt of such copy, shall advertise the time and place of sale by notice published once each week for four (4) consecutive weeks in at least one (1) newspaper published in the city of Helena, Montana, and by one (1) publication in one (1) newspaper published in the city of New York, State of New York, as provided by law. The first publication of such notice shall be made not less than thirty (30) days next preceding the date of sale. Such notice shall state that such sale will be made at the office of the state treasurer of the State of Montana and shall specify the time of such sale. Such notice shall further state the amount of such debentures to be sold and that the denominations thereof will be made to suit the purchaser, and shall further state that said debentures shall bear interest at a rate not to exceed four per centum (4%) per annum and that sealed bids will be received therefor.

At the time and place stated in said notice the state treasurer and the state highway commission shall open the bids in public and may award said debentures to the bidder or bidders offering to

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pay the highest price therefor, or offering to purchase said debentures at par and accrued interest at the least rate of interest. The state treasurer and the state highway commission shall have the right to refuse any and all bids and they shall require as security for compliance with the terms of each bid, the deposit of a certified check equal to two per centum (2%) of the bid, drawn on some solvent bank or trust company payable to the order of the state treasurer as a guaranty that said debentures will be paid for by the bidder whose bid is accepted. Such certified check and the proceeds therefrom shall be forfeited to the State of Montana in case such bidder fails to make good his bid.

The cost of the advertisement of the sale of any of said debentures shall be paid out of the state highway fund as other claims against said fund are paid.

Section 6. The proceeds from the sale of said state highway treasury anticipation debentures shall be placed in the state treasury and credited to the state highway fund to be used for the purposes hereinbefore set out.

Section 7. The state treasurer may, with the approval of the state board of examiners, and other officials whose approval is required by law for the investment of public funds, purchase such debentures for public investment on a competitive basis with any other bidders.

Section 8. The said state highway treasury anticipation debentures may be accepted at their par value by all public officials of the State of Montana as security for the repayment of all deposits of public moneys of the state or of any county, municipality or public institution thereof, and as security for the faithful performance of any obligation or duty to guarantee the performance of which such officials are now authorized by law to accept deposits of the bonds of this state or of the United States of America.

Section 9. For the purpose of providing funds for the payment of the interest and the maturing principal of the state highway treasury anticipation debentures herein provided for every distributor referred to and defined in the gasoline license tax laws of the State of Montana now in effect shall pay for the year beginning April 1, 1939, and ending March 31, 1940, and each year thereafter until the principal and interest of all debentures issued under the authority of this act shall have been paid, to the state board of equalization for deposit into the state treasury, an excise or license tax for the privilege of engaging in and carrying on such business in this state in an amount equal to five cents (5c) for each gallon of gasoline refined, manufactured, produced or impounded

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by such distributor and sold by him in this state, or shipped, transported or imported by such distributor into and distributed and sold by him within this state, after it has arrived in and is brought to rest within this state, whether sold in the original packages or in the broken packages during such year; provided that all gasoline delivered by any distributor to any of his service stations in this state shall be deemed to have been sold and shall be treated and considered in computing such license tax in the same manner as though the same had been sold to dealers or to other persons. In making the computation of license tax due and in making payment thereof, two per centum (2%) of the amount of such tax shall be deducted by the distributor as an allowance for evaporation and other loss of gasoline handled by such distributor, and every dealer referred to and defined in the gasoline license tax laws of the State of Montana now in effect, shall, for the year beginning April 1, 1939, and ending March 31, 1940, and each year thereafter until the principal and interest of all debentures issued under the authority of this act shall have been paid, while engaged in such business in this state, pay to the state board of equalization for deposit in the state treasury, a license tax for the privilege of engaging in and carrying on such business in this state, in a sum equal to five cents (5c) for each gallon of gasoline sold or distributed by such dealer in the state during such year; provided, however, that no gasoline sold by such dealer, which was purchased by him from a producer or distributor, who has paid the tax thereon, shall be included or considered in determining the amount of such license tax to be paid by such dealer, but only such gasoline as was shipped, transported or imported into this state and purchased by such dealer before it had arrived in and was brought to rest within this state and then re-sold by such dealer, whether in the original packages or in broken packages, shall be included or considered for the purpose of computing such license tax due, provided that no gasoline exported out of the State of Montana shall be included in the computation of any dealer's license tax herein provided for. Two per centum (2%) of the amount of such tax shall be deducted as an allowance for evaporation and other loss of gasoline handled by such dealer.

Section 10. It is hereby provided that if this act shall fail to receive the approval of the people at the general election herein provided for, nothing herein contained shall operate to repeal or amend any of the laws of the State of Montana relating to the excise taxes on gasoline or motor fuels.

Section 11. This act shall be known as "The State Highway Treasury Anticipation Debentures Act of 1938".

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Section 12. If any section, provision, clause, or phrase of this act be adjudged unconstitutional, or invalid by any court, for any reason, such adjudication shall not affect the validity of this act as a whole, or of any section or provision thereof which is not specifically so adjudged unconstitutional or invalid.

Section 13. This act shall be in full force and effect from and after its passage and approval and proclamation to that effect by the governor, providing the same shall have received a majority of the votes cast for and against it at the election herein called.

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NOTE:

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